

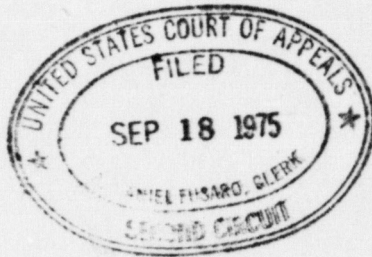
***United States Court of Appeals
for the Second Circuit***



EXHIBITS

(transcript)

75-6046



B
P/L
S

AGNES R. NUGENT

v.

SECRETARY OF H.E.&W.

3

Clement B. Nugent, Cl. & W/E
A/N 081-18-0678

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Clement B. Nugent
(Claimant)

081-18-0678

1

(Social Security Number)

(Wage Earner) (Leave blank if same as above)

EXHIBITS

EXHIBIT
NO.

DESCRIPTION

NO. OF
PAGES

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Clement B. Nugent
(Claimant)

081-18-0678
(Social Security Number)

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(Wage Earner) (Leave blank if same as above)

EXHIBITS (Cont'd.)

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Clement B. Nugent
(Claimant)

081-18-0678
(Social Security Number)

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(Wage Earner) (Leave blank if same as above)

EXHIBITS (Cont'd.)

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Clement B. Nugent
(Claimant)

081-18-0678
(Social Security Number)

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(Wage Earner) (Leave blank if same as above)

EXHIBITS (Cont'd.)

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Clement B. Nugent
(CLAIMANT)

081-18-0678

5

(SOCIAL SECURITY NUMBER)

(WAGE EARNER) (LEAVE BLANK IF SAME AS ABOVE)

AC EXHIBIT LIST

EXHIBIT NO.

DESCRIPTION

COURT TRANSCRIPT
PAGE NO.

AC-1

Medical report signed by Charles Schuman, M.D.,
dated May 19, 1971.

201



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

6

September 2, 1971

BUREAU OF
HEARINGS AND APPEALS

HIA:C

REFER TO: 031-18-0578

ACTION OF APPEALS COUNCIL ON REQUEST FOR REVIEW

Mr. Clement Nugent
1606 Albany Avenue
Brooklyn, New York 11210

Dear Mr. Nugent:

Your request for review of the hearing examiner's decision has been carefully considered by the Appeals Council. The Council's consideration of your request has included all the evidence in your case, the law and regulations applicable to your claim, the hearing examiner's evaluation of the facts and the reasoning in his decision, and your reasons for believing your claim should be allowed. Evidence in addition to that which was before the hearing examiner has been received by the Appeals Council.

The Appeals Council has concluded that the decision of the hearing examiner is correct. Further action by the Council would not, therefore, result in any change which would be of advantage to you. Accordingly, the hearing examiner's decision stands as the final decision of the Secretary in your case.

If you desire a review of the hearing examiner's decision by a court, you may commence a civil action in the district court of the United States in the judicial district in which you reside within sixty (60) days from this date. See section 205(g) of the Social Security Act, as amended (section 405(g), Title 42, United States Code). If such action is commenced, the Secretary of Health, Education, and Welfare is the proper defendant.

Sincerely yours,

Jackson C. Smith
Member, Appeals Council

cc:
Mrs. Agnes Nugent

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

7

ORDER OF APPEALS COUNCIL

In the case of

Claim for

Clement B. Nugent

(Claimant)

Period of Disability and
Disability Insurance Benefits

Clement B. Nugent

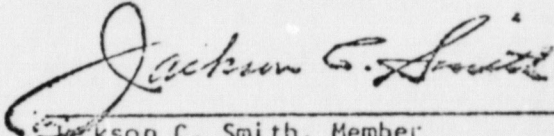
(Wage Earner) (Leave blank if same as above)

081-18-0678

(Social Security Number)

Evidence in addition to that which was before the hearing examiner has been received by the Appeals Council and is hereby made a part of the record. That evidence consists of a medical report signed by Charles Schuman, M.D., dated May 19, 1971 and is hereby marked as Exhibit AC-1.

APPEALS COUNCIL


Jackson C. Smith, Member

Date: September 1, 1971

SCB:lkx

26 Federal Plaza, Rm. 3138
New York, New York 10007
June 1, 1971

Mrs. Agnes Nugent
1606 Albany Avenue
Brooklyn, New York 112

Re: Clement Nugent - Clt. & W/E
A/N 081-18-0678

Dear Mrs. Nugent.

This is to acknowledge receipt of your two (2) letters dated May 26, 1971 transmitting a copy of your husband's honorable discharge and statements from Dr. Charles Schuman dated January 6, 1969 and May 19, 1971. *(See Serial 10-10-11)*

Since you are dissatisfied with the decision I issued on March 31, 1971, I have prepared a form requesting the Appeals Council to review my decision. A copy of such form is enclosed for your record. You will hear from the Appeals Council with regard to it.

Very truly yours,

Samuel C. Berson
Hearing Examiner

Enc.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION

Take or mail original and all copies to your local social security office.

9

CLAIMANT Agnes Nugent	CLAIM FOR <input checked="" type="checkbox"/> Entitlement to Disability Benefits (97)
WAGE EARNER (Leave blank if same as above.) Clement Nugent	<input type="checkbox"/> Continuance of Disability Benefits (98)
SOCIAL SECURITY NUMBER 081-18-0678	<input type="checkbox"/> Other
	(Specify type claim)

I disagree with the hearing examiner's action on the above claim and request that the Appeals Council, Bureau of Hearings and Appeals, review it. My reasons for disagreement are:

(SEE ATTACHED CORRESPONDENCE)

Attach to this form, or forward within 10 days to the Appeals Council at the address shown below, any evidence you wish to submit.

Signed by: (Either the claimant or representative should sign - Enter addresses for both)			
SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE		CLAIMANT'S SIGNATURE	
		Agnes Nugent /s/	
STREET ADDRESS		STREET ADDRESS	
		1606 Albany Avenue	
CITY, STATE, AND ZIP CODE		CITY, STATE, AND ZIP CODE	
		Brooklyn, New York 11210	
TELEPHONE NUMBER	DATE	TELEPHONE NUMBER	
	5-28-71		

Claimant should not fill in below this line

Is this request filed within 60 days of the hearing examiner's action? ☒ Yes ☐ No

If "No" is checked: (1) attach claimant's explanation for delay; (2) attach any pertinent letter, material or information in the district office.

ACKNOWLEDGMENT OF REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION

Request for Review of Hearing Examiner's Action in this case was filed on the date shown and at the place indicated.

The APPEALS COUNCIL will notify you of its action on your request.

Appeals Council
Bureau of Hearings and Appeals, SSA
P.O. Box 2518
Washington, D.C. 20013

Date request for review was filed

5-28-71

Place where request for review was filed

New York, New York

For the Social Security Administration

BY

(Signature)

Samuel C. Person
(Title) Hearing Examiner Samuel C. Person

26 Federal Plaza, Room 3138

(Street Address)

New York, New York 10007

(City)

(State)

(ZIP Code)

May 26, 1971

MAY 26 1971

10

Dear Sir -

While we are about this - I will ^{25 Federal Reserve Bank of New York} ~~say~~ ^{say} my husband is being paid Social Security Benefits on the \$48.00 level - is this because of the work year because of illness - I have my Income Tax Records from 1951 to 1967 - the only one I can't find my finger on is 1953 - perhaps because he did not have enough income that year - this was the year he had a spread of the tuberculosis from the left to right side - I am enclosing a copy of his discharge - so that if he can't rec'd credit for these years he will - for the Social Security Representative asked whether or not he was a Veteran - and included this in his form -

I hope to finish with this - this time round -
1951 - 2,311.33 - Leaving returned to work after he had been with tuberculosis

1952 - 5,610.30

1953 -

1954 - 3,720.59

1955 - 4,243.42

1956 - 5,523.22

1957 - 7,467.57

1958 - 3,469.77

Spread of tuberculosis to right lung
Returned to work after R - tuberculosis

Loss of work because of amputation of

part of Surgery - Had to be done
twice - Loss of 25% use of right
hand - the Certificate from the
Compensation Board should be in
his file

11

1959 - 6755.95

1960 - 7072.90

1961 - 6785.86

1962 - 7950.69

1963 - 7100.70

1964 - 7083.86

1965 - 6907.22 Loss of mail due to reaction to

1966 - 7415.72 Promoted to Lateral Loss

1967 - 6737.53 Had for services this year.

1967 - 1222.76 to onset of present eye impair-
ment with complications

This pay record will show that we did not apply
for Benefits - until there was a good and just
reason - for you can manage - as long as there
is hope of recovery -

It this is not in your field - please forward
it to the right Department.

Reginald J. Dupont
(See Vincent B. Dupont)

May 22, 1971

MAY 20 1971

12

Dear Sir -

US Federal Prison,
New York, New York

The initial claim was filed with Social Security - because Mr. Charles Schuman, as well as Mr. Jerome Black were afraid the steroids given to reduce the tumor shying. Behind my husband's eye would reactivate his latent tuberculosis. He did not claim benefits solely for his blind ness - as Mr. Charles Schuman has stated - steroids are notorious for reactivating tuberculosis - and was most adamant in his not doing any work.

In my letter dated December 13, 1967 - the first paragraph covers his chest condition - it was there first noted - not only in September of 1967 - but written in December of 1967 - Mr. Charles Schuman also submitted a Statement (Copy enclosed) on January 1, 1969 - you have the proof of my statements in his file.

There is no mention made in the Decision - Mr. Callender rendered on May 30, 1969 - of Mr. Charles Schuman stating my husband could do no work - in fact he deleted this part of the letter from his file.
AC-1 attached

II

Discussion - but included that part of Mr. Black's letter¹³ that stated he could not return to work as a long-shoreman. at that point in time - neither Whittier had released him ~~to~~ return to work of any type.

In regards to the Hearing Impairment - we questioned Mr. Allen as to why the Hospital Records were not complete. - He made no effort to get the record - for Mr. Roger Miles Rose - had done all testing on my husband's ears - when he was at Lenox Hill in 1968. Had the complete file been obtained, perhaps we would not have been into this problem - I wrote Mr. Rose and obtained this information - as well as calling Lenox Hill and questioning why the complete file was not sent out - Lenox Hill informed me - that five pages of photo. stats had been mailed out - they were not in the file Mr. Allen had at that time - Lenox Hill sent further data at my request. Why was this not done by Social Security? They had questioned us under oath - then did not get the information -

You state in your Discussion that I examined all papers in my husband's file - I examined the papers that had been added after Mr. Allen made his Discussion - these papers had been placed in the

#

file before the Decision Brief - even though the
Decision was rendered in May 30, 1969¹⁴ - and the
Hospital Record not received until June of 1969 -
This I can not understand.

In my understanding of the Law - it reads -
If you are disabled for six months and expect to
be disabled for at least one year - you are
entitled to Benefits - as my husband was never
released for work by his doctors - and his condition
worsened - with the onset of Leprosy - he has been
disabled since March of 1967 - and able to do no
work.

In my letter of July 1969. to the Board in
Washington - I noted that he was already under
treatment for the sciatic nerve impairment -
and had been X-rayed and was under further medication
again the Leprosy did not follow the usual patterns
of eruption -

(See exhibit 2-20)

In the enclosed letter, Dr. Charles Schuman
he again stated - that he did not want my husband
to do any work - we could not and can not seem
to get this across - for the fact remains - that his last
re-activation was in 1965 - I know and you must
know - that tuberculosis is never cured - only arrested -

He did have the tuberculosis before the onset of the other
impairments - and it can fling up at any time - ¹⁵
Dr. Charles Schuman having treated my leg hand for
many years - knows his limitations -

You must know too - that a longshoreman does not
have to work every day - he can work when he
wants to - I may further point out - that my
leg hand worked at night - at times and a half
pay - which accounts for his substantial income -
a longshoreman, unless he works for the trade -
rarely works more than four nights in a week -
You need not take my word for this - you can easily
check it out -

We did not follow through on a Federal Court
Hearing - for we knew my leg hand has been disabled
since 1917 - for it is our belief that he is covered under
the Social Security Law - Washington has these facts -
The letter was addressed to me in care.

I knew I was upset the day I came to your
office - but there again - you had forgotten to tell
your secretary - that papers had been added to my
leg hand's file - after Mr. Kline had made his decision -
but placed in the file before the decision - this threw
me for a loss - and I could not require my compensation -

for your secretary had already told me - that
 I had read the file and nothing had been ¹⁶ added -
 I do know this was an oversight on your part -
 for this was not the usual procedure - but having
 been at this for almost three years - you can
 understand my being upset -

I disagree again with the Decision as laid
 down - for I do not believe this claim has been
 understood from the beginning - my husband has
 been paralyzed for being sick - last 15 months
 of Social Security Benefits - and two years of work
 credit - because the people at Social Security did not
 as after the facts in this case - did not believe the facts
 stated - and would not believe he was sick enough
 to collect his 'Benefits' - Had he been able to work -
 he would have had an insured income of over \$1.00
 a year - even if he did not work - he only had
 to be able to work - he has is being paralyzed for
 working hard - Had he had a sit down position - this
 would never have happened -

I do hope you will consider this Decision - and
 give Mr. Charles Schumann's statements - the weight they
 deserve - for so did as would trust my husband - without

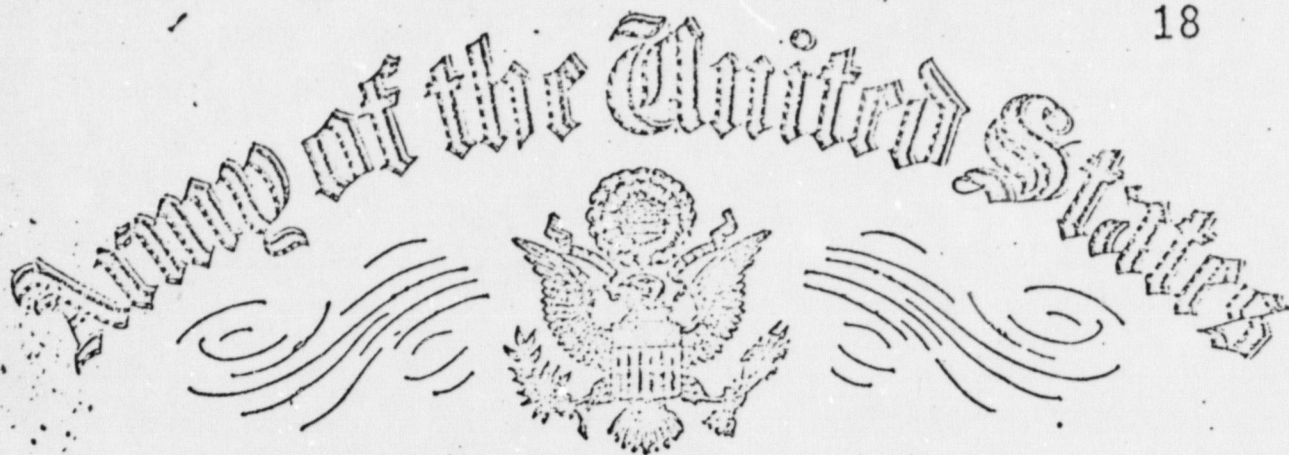
II

Consulting a Chest man. - even for first surgical
procedures. Mr. Schuman led to be consulted - 17

Cyrus J. Huggard
for Clement S. Huggard

See Exs. 101-102
B-100

Enc. - Two letters from Mr. Charles Schuman -
Army Discharge - photo - Stat
Pay record from 1951



Honorable Discharge

This is to certify that

CLEMENT B NUGENT 42 164 922 SERGEANT
3061ST QUARTERMASTER GRAVE REGISTRATION COMPANY

Army of the United States

*is hereby Honorably Discharged from the military
service of the United States of America.*

*This certificate is awarded as a testimonial of Honest
and Faithful Service to this country.*

Given at SEPARATION CENTER, FORT DIX, NEW JERSEY

Date 4 JUNE 1946

Eschell

4612

E. B. FELLIS
MAJOR, INFANTRY

HONORABLE DISCHARGE

1. LAST NAME - FIRST NAME - MIDDLE INITIAL Nugent Clement B		2. ARMY SERIAL NO. 42 164 922	3. GRADE Sgt	4. ARM OR SERVICE QMC	5. COMPONENT AUS
6. ORGANIZATION 3061st Qm Grave Registration Co		7. DATE OF SEPARATION 4 Jun 46	8. PLACE OF SEPARATION Sep Ctr Ft Dix NJ 19		
9. PERMANENT ADDRESS FOR MAILING PURPOSES 1603 Albany Ave Eklyn NY		10. DATE OF BIRTH 18 Oct 14	11. PLACE OF BIRTH Hackensack NJ		
12. ADDRESS FROM WHICH EMPLOYMENT WILL BE BOUGHT see 9		12. COLOR EYES blu	14. COLOR HAIR bn	15. HEIGHT 5-7 1/2	16. WEIGHT 175
10. RACE W		19. MARITAL STATUS S		20. U.S. CITIZEN Y	
21. CIVILIAN OCCUPATION AND NO. Stock Record Clerk 1-01.42					

MILITARY HISTORY


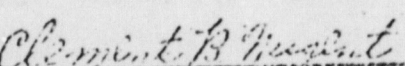
22. DATE OF INDUCTION 27 Jan 45		23. DATE OF ENLISTMENT 27 Jan 45		24. DATE OF ENTRY INTO ACTIVE SERVICE NY NY	
25. PLACE OF ENTRY INTO SERVICE NY NY		26. HOME ADDRESS AT TIME OF ENTRY INTO SERVICE see 9		27. LOCAL S.S. BOARD NO. 214	
28. COUNTY AND STATE Kings NY		29. MILITARY QUALIFICATION AND DATE (i.e., Infantry, aviation and marksmanship badges, etc.) M Rifle Exp 164 15 Mar 45			
30. MILITARY OCCUPATIONAL SPECIALTY AND NO. Section Leader 355					
31. BATTLES AND CAMPAIGNS none					
32. DECORATIONS AND CITATIONS Asiatic Pacific Campaign Medal Good Conduct Medal World War II Victory Medal					
33. WOUNDS RECEIVED IN ACTION none					
34. LATEST IMMUNIZATION DATES				35. SERVICE OUTSIDE CONTINENTAL U.S. AND RETURN	
SMALLPOX Feb 45		TYPHOID Feb 45		DATE OF DEPARTURE 6 Aug 45	
TETANUS Mar 45		OTHER (specify) none		DESTINATION WPTO	
36. TOTAL LENGTH OF SERVICE				DATE OF ARRIVAL 29 Aug 45	
CONTINENTAL SERVICE		FOREIGN SERVICE		37. HIGHEST GRADE HELD	
YEARS	MONTHS	DAYS	YEARS	MONTHS	DAYS
0	6	17	0	9	21
38. PRIOR SERVICE none				Sgt	
39. REASON AND AUTHORITY FOR SEPARATION Dependency Section III AR615-362 15 Dec 44				40. EDUCATION (check) 8 3 0	
41. SERVICE SCHOOLS ATTENDED none				42. EDUCATION (check) 8 3 0	

PAY DATA VO 103523

43. LONGEVITY FOR PAY PURPOSES		44. MUSTERING OUT PAY		45. BOLDIER DEPOSITS		46. TRAVEL PAY		47. TOTAL AMOUNT, NAME OF DISBURSING OFFICER	
YEARS	MONTHS	DAYS	TOTAL	THIS PAYMENT	125.00	4.05	259.87	J HARRIS COL ED	

INSURANCE NOTICE

IMPORTANT IF PREMIUM IS NOT PAID WHEN DUE OR WITHIN THIRTY-ONE DAYS THEREAFTER, INSURANCE WILL LAPSE. MAKE CHECKS OR MONEY ORDERS PAYABLE TO THE TREASURER OF THE U. S. AND FORWARD TO COLLECTIONS SUBDIVISION, VETERANS ADMINISTRATION, WASHINGTON 25, D. C.									
48. KIND OF INSURANCE		49. HOW PAID		50. Effective Date of Allotment Discontinuance		51. DATE of Next Premium Due (One month after 50)		52. PREMIUM DUE EACH MONTH	
Art. Srv.	U.S. Govt.	None	Allotment	Direct to	31 May 46	30 Jun 46	7.10	53. INTENTION OF VETERAN Continue <input checked="" type="checkbox"/> Discontinue <input type="checkbox"/>	

 RIGHT THUMB PRINT	54. REMARKS (This space for completion of above items or entry of other items specified in W. D. Directives) Lapel button issued ASR score (2 Sep 45) 24	
	55. SIGNATURE OF PERSON BEING SEPARATED 	
56. PERSONNEL OFFICER (Type name, grade and organization - signature) 1ST LT AG		

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

20

NOTICE OF DECISION

PLEASE READ CAREFULLY

If you disagree, in whole or in part, with the enclosed decision of the hearing examiner, you may request the Appeals Council to review it. However, your request for review must be filed within 60 days following the date shown below.

You, or your representative, may file the request for review at the nearest office of the Social Security Administration, or you may file the request for review with the hearing examiner, or with the Appeals Council.

Unless you file a timely request for review by the Appeals Council, you may not obtain a court review of your case under sections 205 (g) and 1869 (b) of the Social Security Act.

- This notice and enclosed copy of hearing examiner's decision mailed to the claimant ~~xxx~~ and his representative, Agnes Nugent, 1606 Albany Avenue, Brooklyn, New York on March 31, 1971

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

21

HEARING EXAMINER'S DECISION
AND
ORDER OF DISMISSAL

In the case of

Clement B. Nugent
(Claimant)

Clement B. Nugent
(Wage Earner)

Claim for

Period of Disability and
Disability Insurance Benefits

081-18-0678

(Social Security Account Number)

This case is before the hearing examiner upon a request for hearing filed on September 25, 1970 by Clement B. Nugent, the claimant, who disagrees with the initial and reconsidered determinations of the Bureau of Disability Insurance, Social Security Administration, of which he was last notified on July 9, 1970. After proper notice, a hearing was held before the undersigned on March 17, 1971 at New York, New York, with the claimant's wife Agnes, who is also his representative, present. She stated that the claimant was unable to travel to the hearing.

The claimant filed an application for disability benefits under sections 216(i) and 223 of the Social Security Act on September 4, 1968 alleging that he became unable to work on March 15, 1968 because of optic neuritis and blindness of the left eye. The claim was disallowed, initially and after reconsideration, and the claimant requested a hearing before a hearing examiner of the Social Security Administration. Such hearing was held at New York, New York, on May 12, 1969 before another hearing examiner who issued a decision on May 29, 1969 in which he held that the claimant was not entitled to the disability benefits for which he had applied. The claimant then requested the Appeals Council to review the decision but his request was denied on July 23, 1969. In the notification of this denial to the claimant he was advised that he could commence a civil action in a district court of the United States within 60 days, if he so desired, but he failed to start any action.

On February 19, 1970 the claimant filed a second application for disability benefits again alleging inability to work since March 15, 1968. This time, in addition to his eye impairment, the claimant

mentioned pulmonary tuberculosis, deafness in one ear and paralysis of the left hip. This application was allowed by the Bureau of Disability Insurance with an onset date of June 30, 1969. The claimant requested reconsideration on the ground that his onset date should be established as of March 15, 1968. After reconsideration, the Bureau of Disability Insurance affirmed the onset date of June 30, 1969. The claimant was dissatisfied and he filed a timely request for a hearing on the date first mentioned above. In his request he stated that he has not been permitted to work since March 1968 and that his condition has worsened.

The law and the issues are set forth in the hearing examiner's decision of May 29, 1969 and no useful purpose would be served in repeating them herein.

Evidence of record, together with a list of exhibits which identifies the evidence of record, was examined by the claimant's representative prior to the hearing. The undersigned has considered all the evidence of record, as well as the argument of claimant's representative, in arriving at this decision.

The claimant's educational and vocational background, as well as his allegations, are set forth in the hearing examiner's decision of May 29, 1969 and no useful purpose would be served in repeating such information herein.

Except for a report from the Lenox Hill Hospital (exhibit B-17), the medical evidence considered by the hearing examiner at the time he issued his decision is summarized in such decision. No useful purpose would be served in repeating such summarization herein. Additional medical evidence received since then consists of two reports from the Lenox Hill Hospital (exhibits B-37 and B-41), two reports from Dr. Charles Schuman (exhibits B-38 and B-52), two reports from Dr. Roger M. Rose (exhibits B-39 and B-54), two reports from Dr. Jerome M. Block (exhibits B-40 and B-53), and another report from Dr. Marvin S. Siegel (exhibit B-51).

The report from the Lenox Hill Hospital and one of the new reports from the hospital concern a period of hospitalization from March 23, 1968 to April 12, 1968. Chief complaint was pressure behind the left eye, without pain, for some one and a half months. There also had been reduction of vision in that eye. Visual acuity, tested on March 25, was 20/25 in the right eye. It was 20/400 in the left eye with the vision unimprovable by refraction. An electroencephalogram was within normal limits. A skull x-ray was not indicative of any disabling condition. A chest x-ray showed that the volume of the left lung was considerably less than that on the right

with pleural thickening in the upper portion of the left chest. However, no recent parenchymal infiltration or pleural fluid was noted. The left lung was hyperaerated but otherwise appeared to be clear. The heart and aorta were normal in appearance. There were no bony abnormalities. X-ray films of the abdomen were unremarkable. A left carotid arteriogram was considered normal. A doctor's notation dated March 29, 1968 reveals that all studies had been negative. The claimant was discharged on April 12, 1968 with a diagnosis of optic neuritis and retinal hemorrhages on the left.

The claimant was re-admitted to Lenox Hill Hospital on August 7, 1969 with a complaint of pain in the left hip and knee of about five week's duration and a rash on the left thigh. Physical and neurological examinations resulted in the impression of (1) optic neuritis of the left eye, (2) tuberculosis by history and (3) Herpes Zoster. Other possible conditions were to be ruled out. The claimant underwent a series of tests during his period of hospitalization and he was discharged on August 23, 1969. Diagnoses indicated were Herpes Zoster and neuralgia.

One of the additional reports received from Dr. Schuman lists dates of treatment and his fees starting on January 1, 1953 and ending on January 2, 1969. Another report from the doctor, dated September 18, 1969, is repetitive of the reports previously submitted by him and summarized in the hearing examiner's decision of May 29, 1969. Additional information contained in the latest report concerns the diagnosis of Herpes Zoster made by the Lenox Hill Hospital as set forth above.

Dr. Block's reports, dated August 30, 1969 and March 16, 1970, also contain information in his previous reports and which was summarized in the hearing examiner's decision of May 29, 1969. Additionally, the doctor mentions that in June 1969 the claimant developed pain in the left hip and in July he developed a rash over the anterior lateral aspects of the left hind thigh and calf. Severe hip and leg pain was present which increased with the appearance of the rash. Neurologic findings at that time, aside from the deafness and blindness set forth in his previous reports, were marked weakness of hip flexion and knee extension. The rash disappeared subsequent to claimant's confinement at Lenox Hill Hospital in August 1969. However, the claimant was left with a paretic left hip and knee with marked weakness of the muscles and milder weakness of the dorsiflexors of the left foot. Moreover, there was some urinary urgency and stress incontinence as well as hypalgesia in the L2 - L3 - L4 distribution on the left side. The claimant continued to complain of constant severe pain in the left buttock and leg requiring phenobarbital and Demerol. The claimant also was taking Dilantin. The

pain, however, has not been controlled. Additionally, Dr. Block described shortness of breath and wheezing throughout the lung fields. Diagnoses were (1) blindness, left eye; (2) bilateral deafness, greater on the right; (3) pulmonary tuberculosis; and (4) Herpes Zoster and post-herpetic neuralgia in association with paralysis of the left hip and the musculature with marked pain. Dr. Block commented that the claimant was totally disabled due to the combination of his illnesses.

In his latest report, dated March 24, 1970, Dr. Siegel enlarges on the report he submitted on November 7, 1968 (exhibit B-22) which was summarized in the May 29, 1969 decision. Otherwise, the information submitted by him is essentially the same as that set forth in Dr. Block's reports as summarized in the May 29, 1969 decision and above.

Dr. Rose, an otolaryngologist, submitted reports on September 9, 1969 and December 2, 1969 which reveal that the claimant has a marked loss for loudness and a severe impairment of discrimination in the right ear with some moderate impairment for loudness in the left ear. Discrimination in that ear is good.

At the hearing, the claimant's representative complained that the previous hearing examiner issued his decision even though available medical reports had not been made a part of the record. She also complained that the Appeals Council had denied the request for review of the decision without considering information submitted to it. She said that Dr. Schuman would not let the claimant work but she conceded that the left hip and knee conditions were not present prior to the month of June 1969.

On the basis of the evidence herein, the question before the hearing examiner is whether or not the claimant has established by pertinent medical evidence the existence of an impairment or impairments of sufficient severity to constitute a "disability" as that term is defined in the Social Security Act. Since the hearing examiner does not intend to reverse the determination of the Bureau of Disability Insurance to the effect that claimant's impairments were severe enough to entitle him to the benefits provided by the Act, the question to be resolved is whether the evidence establishes his entitlement before June 30, 1969 which is the date of onset of disability found by the Bureau of Disability Insurance.

In his decision of May 29, 1969 (exhibit B-42), the hearing examiner evaluated the evidence then before him and said evaluation is incorporated herein by reference. The undersigned adopts his inferences, findings and conclusions on the ultimate issue of "disability," as supplemented herein.

This hearing examiner, after a careful study of the evidence not before the previous hearing examiner, finds that such evidence does not reveal the existence, through May 29, 1969, of any severe impairments other than the loss of sight of the left eye and a hearing loss. Based on such medical conditions and the claimant's prior background, which included employment as an assistant field foreman for an oil company with duties of procurement and maintenance of records, a well-qualified vocational expert expressed the opinion at the hearing held on May 12, 1969 that the claimant was able to engage in substantial gainful activity as an inventory clerk, general office clerk, timekeeper, information clerk and order taker. The undersigned is also of this opinion and so finds.

Section 404.937 of Social Security Regulations No. 4 [20 CFR 404.937] provides, in pertinent part, as follows:

The hearing examiner may, on his own motion, dismiss a hearing request, either entirely or as to any stated issue, under any of the following circumstances:

(a) Res Judicata. - Where there has been a previous determination or decision by the Secretary with respect to the rights of the same party on the same facts pertinent to the same issue or issues which has become final either by judicial affirmance or, without judicial consideration, upon the claimant's failure timely to request reconsideration, hearing, or review, or to commence a civil action with respect to such determination or decision ***.

The prior decision, issued on May 29, 1969, adjudicated the claimant's rights to that day. The doctrine of res judicata is applicable and the claimant is not entitled to another hearing with respect to whether or not he was under a "disability" through May 29, 1969. Consequently, insofar as his current request for hearing relates to the issue of whether or not he met the definition of disability on or before May 29, 1969, it is dismissed in accordance with the aforementioned facts and the provisions of the foregoing regulation. Thus, the only issue before the undersigned is whether the claimant is entitled to the establishment of a period of disability effective May 30, 1969, May 31, 1969 or June 1, 1969 1/.

1/ Establishment of a period of disability on any of these days will entitle the claimant to an additional month's benefits.

The evidence discloses that the claimant did not allege a left hip and left lower extremity problem at his hearing on May 12, 1969 or prior thereto. It was not until June 1969 that he developed pain in the left hip and knee, which was subsequently diagnosed as resulting from Herpes Zoster. When hospitalized at Lenox Hill on August 7, 1969, history indicated that the pain was of some five weeks duration. It was the residuals of this condition, in combination with the other impairments, which was the basis for the finding by the Bureau of Disability Insurance that the claimant was entitled to the disability benefits provided by the Social Security Act. The undersigned believes that this determination was a valid one. Obviously, the pain did not start on or prior to June 1, 1969. As a result, it cannot be found that the claimant's "disability" commenced prior to June 2, 1969. The exact date when it commenced is unknown. However, it does not matter insofar as claimant's benefits are concerned whether the "disability" started on the 2nd of June 1969 or the 30th of the month. Consequently, the determination of the Bureau of Disability Insurance that the claimant was under a "disability" as of June 30, 1969 is affirmed.

In arriving at the foregoing conclusion, the hearing examiner has not ignored the recommendation of Dr. Schuman that the claimant should not work while undergoing steroid therapy for his eye condition because of the possibility of reactivating the claimant's tuberculosis. Since the claimant was employed at the heavy duties of a longshoreman for many years, it must be assumed that Dr. Schuman made his recommendation with this in mind. Had he known that the claimant had the background to perform sedentary work, the recommendation probably would not have been made by him.

FINDINGS OF FACT

From an analysis of all the evidence of record, the hearing examiner makes the following findings:

1. The claimant met the special earnings requirement for a disability insured status on March 15, 1968, the date of alleged "disability" onset, and he continues to meet such requirement through the date of this decision.
2. The evidence establishes that the claimant has lost the sight of his left eye, has impaired hearing and has a partially paralyzed left lower extremity.

3. The claimant's impairments, in combination, prevented him from engaging in substantial gainful activity commencing on June 30, 1969 but not prior thereto.
4. The claimant's inability to engage in substantial gainful activity by reason of the combination of his impairments continued from June 30, 1969 to the date of this decision.
5. The claimant was under a "disability," as defined in the Act prior to and after the Social Security Amendments of 1965, which commenced on June 30, 1969 and has continued to the date of this decision.
6. Prior to June 30, 1969, the claimant was not under a "disability," as defined in the Act either prior to or after the Social Security Amendments of 1965.

DISMISSAL ORDER AND DECISION

Insofar as claimant's request for hearing concerns the issue as to whether or not he was disabled under the Act for the period through May 29, 1969, it is hereby dismissed. The prior decision, dated May 29, 1969, is res judicata with respect to this issue.

It is the decision of the hearing examiner that the claimant, based on his application filed on February 19, 1970, is entitled to a period of disability commencing on June 30, 1969 and to disability insurance benefits effective January 1970, under the provisions of sections 216(i) and 223, respectively, of the Social Security Act, in effect prior to the Social Security Amendments of 1965.

Samuel C. Berson
Samuel C. Berson
Hearing Examiner

Date: March 31, 1971

APPEARANCE AT HEARING

CLAIMANT Clement B. Nugent	WAGE EARNER same	SOCIAL SECURITY NUMBER 081-18-0678
--------------------------------------	----------------------------	--

IMPORTANT - COMPLETE AND MAIL THIS CARD IMMEDIATELY (POSTAGE FREE)

(Check one only) Wednesday, March 17, 1972, 10 a.m.

☐ I will be present at the time and place specified in the Notice of Hearing. If an emergency arises after I mail this card so that I cannot be present, I will notify the Hearing Examiner of this fact immediately.

☒ I cannot be present. My specific reasons are: As I am disabled
I have not appeared at this hearing
my wife will appear in my stead
and has told me what to do

ANY POSTPONEMENT WILL DELAY DISPOSITION OF YOUR CASE. IF YOU CANNOT ATTEND, GOOD REASON MUST BE GIVEN.

SIGNATURE Clement B. Nugent	YOUR TELEPHONE NO. 264-7722
---------------------------------------	---------------------------------------

DEPT. OF HEALTH, EDUCATION, AND WELFARE



Samuel C. Berson, Hearing Examiner
Bureau of Hearings and Appeals
Room 3133, Federal Building
25 Federal Plaza
New York, New York 10007

MAR 5 1971
25 Federal Plaza, Rm. 3133
New York, New York 10007

NOTICE OF HEARING

In the case of

Clement B. Nugent

(Claimant)

Clement B. Nugent

(Wage Earner)

Claim for Period of Disability and
Disability Insurance Benefits

081-18-0678

(Social Security Account Number)

To: Mr. Clement B. Nugent
1606 Albany Avenue
Brooklyn, New York 11210

Pursuant to your written request and the provisions of Sections 205(b) and 1869(b) of the Social Security Act, a hearing will be held by the undersigned, a Hearing Examiner of the Bureau of Hearings and Appeals,

on the 17th day of March, 1971 at 10 a.m. o'clock in Room 3138 of
the Federal Building, 26 Federal Plaza, New York
(Number and Street) (City)
New York
(State)

The general issues to be determined are whether you are entitled to a period of disability
under section 216(1) commencing prior to June 30, 1969 and to disability
insurance benefits under section 223(a) commencing prior to January 1970.

The specific issues on which findings will be made and conclusions will be reached are (1) when your
disability began; and (2) whether disability insurance benefits may be paid for
any month prior to January 1970 based on your September 4, 1968 and February 19,
1970 applications.

READ THE OTHER SIDE OF THIS NOTICE FOR IMPORTANT INFORMATION REGARDING HEARING
REMARKS:

IMPORTANT -- Please sign and return at once the enclosed postal card notifying me whether you will be present
at the above time and place. No postage is required on this card.

Hearing Examiner <u>Samuel C. Berson</u> <i>Samuel C. Berson</i>		Mail Address <u>26 Federal Plaza, Room 3138</u>
Date <u>February 19, 1971</u>	Telephone number <u>264 3815</u>	<u>New York, New York 10007</u>
cc: Representative (Name and Address) <u>Mrs. Agnes Nugent, 1606 Albany Avenue, Brooklyn, New York 11210</u>		
District Office (Address) <u>135 E. 22nd Street, Brooklyn, N.Y.</u>		

IMPORTANT INFORMATION

Appearance at Hearing

31

The date and time of this hearing have been set aside especially for you. Your failure to appear without good reason may cause dismissal of your Request for Hearing. Even though there is good reason, any postponement will delay disposition of your case. If an emergency arises preventing your appearance after you mail the postal card stating that you will be present, notify the Hearing Examiner promptly and give your reasons. Also, advise the Hearing Examiner of the earliest date after which he can reschedule your case for hearing.

Conduct of Hearing

The law places on you the burden of submitting evidence to support your claim. Bring to the hearing all evidence not already presented in your case.

You will have an opportunity to examine the documentary evidence on the day of the hearing. If you wish to examine it before the day of the hearing you may do so at the Hearing Examiner's office.

At the hearing the Hearing Examiner will inquire fully into the matters at issue. You may present evidence either in the form of written documents or the testimony of witnesses, or both. Your testimony and that of any witnesses will be under oath or affirmation, and a verbatim record of the proceedings will be made. You may suggest findings of fact or conclusions of law and present arguments orally or in writing.

Representation

While it is not required, you may be represented at the hearing by an attorney or other qualified person of your choice, if you desire assistance in presenting your case. Any fee which your representative wishes to charge for his services in your case must be approved by the Bureau of Hearings and Appeals. Your representative must petition for fee approval at the conclusion of his services, and furnish you with a copy of his petition.

If you are found entitled to benefits and your representative is an attorney, 25 percent of your back benefits will normally be withheld for payment to your attorney upon approval of his fee. If the approved fee is less than the 25 percent we withheld, we will pay the difference directly to you. If the approved fee is more than 25 percent, payment of the difference is a matter to be settled between you and your attorney.

If your representative is not an attorney, none of your benefits will be withheld; and payment of the fee which approved is a matter to be settled between you and him.

If you have any other questions, your local Social Security office will be glad to help you.

REQUEST FOR HEARING

Take or mail original and all copies to your local Social Security office.

32

CLAIMANT'S NAME

Clement Nugent
WAGE EARNER'S NAME (Leave blank if same as above)

SOCIAL SECURITY NUMBER

087-18-0678 AA

CLAIM FOR

☒ Entitlement to Disability Benefits (97)

☐ Continuation of Disability Benefits (98)

☐ Other

(Specify type claim)

I disagree with the determination made on the above claim and request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. My reasons for disagreement are:

Since March of 1967 I have not been permitted to work and in fact my condition has worsened.

Check one of the following:

- ☐ I have additional evidence to submit.
(Attach such evidence to this form or forward to the Social Security Office within 10 days.)
☒ I have no additional evidence to submit.

Check ONLY ONE of the statements below.

- ☒ I wish to appear in person before the hearing examiner.
☐ I waive my right to appear and give evidence, and hereby request a decision on the evidence before the hearing examiner.

Signed by: (Either the claimant or representative should sign. Enter addresses for both. If claimant's representative is not an attorney, complete Form SSA-1696)

SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE

Clement B. Nugent
ADDRESS
1606 Pelham Ave
CITY, STATE, AND ZIP CODE
Brooklyn New York 11210

CLAIMANT'S SIGNATURE

Clement B. Nugent
ADDRESS
1606 Pelham Ave
CITY, STATE, AND ZIP CODE
Brooklyn New York 11210

TELEPHONE NUMBER

2-4-7755

DATE

Sept 22, 1970

TELEPHONE NUMBER

Is this request filed within 6 months of the reconsideration determination? ☒ Yes ☐ No

If "No" is checked: (1) attach claimant's explanation for delay, (2) attach any pertinent letter, material, or information in the Social Security Office.

ACKNOWLEDGMENT OF REQUEST FOR HEARING

Your request for a hearing was filed on 9/25/70 at 135 E 22 St Blk NY
The hearing examiner will notify you of the time and place of the hearing at least 10 days prior to the date which will be set for the hearing. 11226

Hearing Examiner Copy	TO:	<input checked="" type="checkbox"/> Hearing Examiner <u>26 Federal Plaza NY NY</u>
	TO:	<input type="checkbox"/> Hearing Examiner-Disability file in BDI TELETYPE BDI, BALTIMORE, MD.
	<input type="checkbox"/> Payment Center	(Location)
	<input type="checkbox"/> BHI	(Location)
	<input type="checkbox"/> DFC (BRSI) <input type="checkbox"/> CWAB (BDPA)	
Claim File Copy	Interpreter Needed _____ (Language)	

For the Social Security Administration

By: C. Licker (Signature) CR (Title)
135 E 22 St (Street Address)
Blk NY (City) NY (State) 11226 (ZIP Code)
Serving District Office Code 127

071-17-0678

September 30, 1970

33

To Whom it May Concern -

As all information not gotten by Social Security in 1968. Should now be in my file. I don't think any further information is necessary -

Lenox Hill Hospital should have supplied all necessary data - as many waivers have been signed - I know my Doctors have filed many papers with Social Security - The Hospital Records were missing -

I hope the paper that was missing from my file - the last time my wife visited the Social Security Office - has turned up
My Wife will appear at the

Dissing in my Sterd

Clement B. Nugent₃₄

RECEIVED
JAN 20 1934
U.S. DEPT. OF AGRICULTURE
WASHINGTON, D.C.

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

35

TRANSCRIPT

In the case of

Claim for

Clement B. Nugent
(Claimant)

Period of Disability and
Disability Insurance Benefits

Clement B. Nugent
(Wage Earner)

081-18-0678

(Social Security Account Number)

Hearing Held

at
26 Federal Plaza, Room 3138
New York, New York 10007

on

March 17, 1971

APPEARANCES:

Mrs. Agnes Nugent, Wife and Representative of Claimant

Samuel C. Berson
Hearing Examiner

Ana Maria Ayala
Hearing Assistant

INDEX OF TRANSCRIPT

In the case of

Clement B. Nugent, Claimant

and Wage Earner

Account Number

081-18-0678

Testimony of Mrs. Agnes Nugent Commencing p. 1

(The following is a transcript of the hearing held before Samuel C. Berson, a Hearing Examiner of the Bureau of Hearings and Appeals, Social Security Administration, Department of Health, Education, and Welfare, on March 17, 1971, at New York, New York, in the case of Clement B. Nugent, claimant and wage earner, social security number 081-18-0678. The claimant was not present at the hearing but was represented by his wife, Mrs. Agnes Nugent.)

(The hearing commenced at 10:16 a.m., on March 17, 1971.)

OPENING STATEMENT BY HEARING EXAMINER:

HEARING EXAMINER: We are ready to proceed with the hearing in the matter of Clement B. Nugent, claimant for disability benefits under the provisions of the Social Security Act. Let the record show that the claimant's wife and representative, Mrs. Agnes Nugent, is present. Mrs. Nugent, do you expect your husband here?

MRS. NUGENT: No, he won't be here. He can't make it.

HEARING EXAMINER: Why couldn't he make it?

MRS. NUGENT: Because he only can travel to the doctor by private transportation.

HEARING EXAMINER: In other words, he could have taken a taxi here?

MRS. NUGENT: Yes, but he couldn't sit this length of time. It takes him awhile to recover after he goes to the doctor.

HEARING EXAMINER: All right. Now, generally you know about this type of hearing because you were at such a hearing representing your husband on May 12, 1969.

MRS. NUGENT: Excuse me, but at the hearing in 1969 I was not allowed to open my mouth. When I objected to something I was told that I couldn't say it until Mr. Allen was ready to allow me to say it,

and by that time I was so upset I couldn't even say what I intended to say.

HEARING EXAMINER: Well, anyway, do you know what the procedure is.

MRS. NUGENT: Yes.

HEARING EXAMINER: Of course, with your husband absent, I can't question him as Mr. Allen did in 1969. However, at this point I will try to summarize the facts in this case from the very beginning. Stop me at any point that you think I have made an error. Oh, before we do -- before I do summarize, there is a matter of receiving into evidence these proposed exhibits. You know that these documents have been gathered by the Bureau of Disability Insurance, and the folder was sent to me after the request for hearing was filed. Now, prior to the beginning of this hearing, you saw the documents and you also saw a list of exhibits which contains a brief description of those documents. Is that correct?

MRS. NUGENT: If nothing has been added to that since the last time, I have seen the whole thing.

HEARING EXAMINER: Excuse me, Mrs. Nugent, this morning before this hearing started, did you have --

MRS. NUGENT: I had that.

HEARING EXAMINER: The folder in your hand?

MRS. NUGENT: That's right.

HEARING EXAMINER: Now, things have been added since the last hearing.

MRS. NUGENT: From the time of the Judge's -- Mr. Allen's decision on, I did this morning. Is that what you wanted to know?

HEARING EXAMINER: Yes.

MRS. NUGENT: Okay. I don't want to make any mistake either.

HEARING EXAMINER: Yes, nothing has been added among the -- nothing has been inserted in the documents that appear here as exhibits from the prior hearing. Excuse me, there is something. Did you read, did you review the Appeals Council exhibits which the Appeals Council received in evidence, that they considered before they denied review?

MRS. NUGENT: Does that amount to further evidence from the hospital?

HEARING EXAMINER: Well, let's have a recess while I show it to you.

MRS. NUGENT: Okay.

(At this point there was a recess.)

HEARING EXAMINER: The hearing will be resumed. Mrs. Nugent, have you reviewed as much as you want to review, all the documents in this file?

MRS. NUGENT: Yes, because other things have been added to it.

HEARING EXAMINER: Do you have any objection to the admission of any of these documents into the record?

MRS. NUGENT: No, because they should have been gotten in the beginning.

HEARING EXAMINER: All right, in the absence of any objection, the documents set forth in the list of exhibits will be received in evidence as Exhibits B-1 to B-55 inclusive. Now that we have taken care

of that preliminary -- necessary preliminary, Mrs. Nugent, at this point I will briefly summarize the history of this case. I am not going to go into any medical problems. As I instructed you before, please stop me if I make a mistake. The record shows that on September 4, 1968, your husband filed an application for disability benefits under the provisions of the Social Security Act, alleging that he became unable to work as of March 15, 1968 because of optic neuritis and blindness of the left eye. His application was disallowed initially and after reconsideration by the Bureau of Disability Insurance of the Social Security Administration, and he requested a hearing before a Hearing Examiner of the Social Security Administration. Such hearing was held on May 12, 1969 at which your husband appeared and testified, and you were present as his representative. There was a vocational expert present, and he also testified. The Hearing Examiner held that your husband was not entitled to the disability benefits for which he filed application.

MRS. NUGENT: Excuse me.

HEARING EXAMINER: Yes, ma'am.

MRS. NUGENT: We pointed out to the hearing examiner what was lacking in the file and --

HEARING EXAMINER: Mrs. Nugent, Mrs. Nugent, at this point, if you don't mind, tell me if there is anything incorrect in my summarization of the history.

MRS. NUGENT: Oh, in other words, if there are mistakes in it made by the examiner, I'm not to tell you. Right?

HEARING EXAMINER: What he did might have been corrected later on, if you think what he did was incorrect. I'm not interested in hearing your complaints about the Hearing Examiner or somebody else. I'm interested in conducting this hearing which was requested based upon this application. I will also consider all the evidence in the file.

MRS. NUGENT: I don't -- I truly don't understand. You want me to listen to you and when you finish then -- is that what you want me to do?

HEARING EXAMINER: No. I said to you that I am going to give a history of the case.

MRS. NUGENT: Right.

HEARING EXAMINER: Now I wasn't present last time, and I can't --

MRS. NUGENT: I understand.

HEARING EXAMINER: All right. I'm only giving a history of this case from the documents which have been received in evidence. If I make an incorrect statement, then correct me.

MRS. NUGENT: Oh, I wasn't correcting you. I was correcting what was in the record.

HEARING EXAMINER: I only asked that you correct my relation of the history of this case by expressing my summarization of the history. That's all I wanted. If you don't want to know about the history of this case, I don't have to put it down on the record. I'm

trying to orient you about what happened.

MRS. NUGENT: It's very hard to do. Well, all right. Thank you.

HEARING EXAMINER: Shall I continue?

MRS. NUGENT: Please.

HEARING EXAMINER: What I said was that the previous Hearing Examiner held that your husband was not entitled to receive the disability benefits for which he had filed application. A request for the Appeals Council to review that Hearing Examiner's decision was filed. Now on July 23, 1969, the Appeals Council notified your husband of the denial of his request to have the Council review the Hearing Examiner's decision. In that notification your husband was advised of his right to commence a civil action in a district court of the United States within sixty days if he so wanted to do. Insofar as I know, no civil action was ever filed in a district court of the United States. Instead, on February 19, 1970, your husband filed a second application for disability benefits, again alleging inability to work since March 15, 1968. Now, in addition to the eye condition, this application indicates other impairments preventing work as tuberculosis of the lungs, deafness in one ear, and paralysis of the left hip. The Bureau of Disability Insurance allowed this application in part. Instead of finding that your husband was under a disability since March 15, 1968, as alleged by your husband, the Bureau of Disability Insurance found that he was under a disability since June 30, 1969. This was affirmed

upon reconsideration. Your husband, or you, on his behalf, asked for another hearing based on your contention that your husband became unable to work on March 15, 1968. Now, that's the end of the history.

Is that correct?

MRS. NUGENT: Well, it is correct to a degree.

HEARING EXAMINER: All right. Where is it incorrect?

MRS. NUGENT: It is incorrect in the fact I have it right here. Perhaps Mr. Allen's statement -- I'm not going to discuss it further, the evaluation, but from Mr. Allen's own statement it was totally on the eye condition. I pointed out to Mr. Allen, after I had read the file, what was lacking in the file. I couldn't believe that Lenox Hill had sent such a small amount of information. I called Lenox Hill and Lenox Hill said they had sent so many pages of script that was not in the file. They wrote, they sent -- I didn't bother them again, but when this came up again, I wrote them and they sent me photocopies of what they had sent. Mr. Allen questioned his having pneumonia; he questioned his having tuberculosis. I don't know if you knew Mr. Allen's office. This, I don't know. Mr. Allen had a great big long table. My husband sat at that end of the table, and Mr. Allen sat there. When Mr. Allen started questioning my husband, my husband couldn't hear a word he said. Mr. Allen moved my husband next to him, with his good ear next to him, and Mr. Allen politely writes here, "Mr. Nugent heard every word I said."

HEARING EXAMINER: At a distance which was not a far ways?

MRS. NUGENT: At a distance from here to here. Now, I don't know what distance that is, but he was sitting right next to Mr. Allen.

HEARING EXAMINER: All right. So you object to circumstances.

MRS. NUGENT: I objected in the first place that he was asked questions as to his tuberculosis. The question is here, and he questioned that he couldn't work. This is the main reason we went originally to social security. The tuberculosis prevented him from working, because of the activated condition.

HEARING EXAMINER: Mrs. Nugent, if you went to social security on that basis, it's not in the application. The application merely indicates the condition of the eye.

MRS. NUGENT: But this was the basic facts. You have the letter from Dr. Schumen in that file saying that he would not allow him to work. .

HEARING EXAMINER: Mrs. Nugent, you were unhappy with Mr. Allen's decision. You asked the Appeals Council to review the case. The Appeals Council denied your request for review. You were told that if you wished, you could start a legal action.

MRS. NUGENT: Right.

HEARING EXAMINER: And you didn't do so.

MRS. NUGENT: My husband was already sick at that time. Doesn't the Appeals Council tell you how long it took to decide that case?

HEARING EXAMINER: I don't know what you're getting into. How, we are getting into an argument, which I don't want to.

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MRS. NUGENT: No, no, we are not getting into an argument. I'm trying to point out that the Appeals Council did not have that case two weeks before I had a decision on it.

HEARING EXAMINER: All right, Mrs. Nugent. At this moment since I can't question your husband, tell me how you want to present the case.

MRS. NUGENT: Well, all I want to do is point out the mistakes made in the original decision.

HEARING EXAMINER: All right, all right.

MRS. NUGENT: I'm sorry. I'm very upset.

HEARING EXAMINER: All right, Mrs. Nugent, do you want a recess?

MRS. NUGENT: No, I am fine.

HEARING EXAMINER: Well, I could give you a recess.

MRS. NUGENT: No, I will be all right. I was just very upset.

HEARING EXAMINER: Look, you keep saying you're upset, and you don't want a recess. I am trying to accommodate you. I don't want you to work under any strain, and I'm willing to give you a ten minute recess so you can calm yourself.

MRS. NUGENT: Ten minutes will do it.

HEARING EXAMINER: So, we will have a recess.

(At this point there was a recess.)

EXAMINATION BY HEARING EXAMINER:

Q The hearing will be resumed. Mrs. Nugent, you may proceed to present the case in your own way.

Q Well, first, Dr. Schumen forbid my husband to work because the medication given for his eye condition could reactivate his chest condition. Although he hasn't had a reactivation since 1965, both lungs have been infected or affected, and due to the many activations he has had, Dr. Schumen was afraid to let him do any work because of the Prednisone. He is legally blind in the left eye; he cannot hear in the right ear; he has, let me say, his left ear is moderately impaired for loudness; discrimination is good. Mr. Allen questioned his non-hearing and the effect that he could hear what he said. Mr. Allen did not state that he had him move to be closer to him so that he could hear what he did say. Mr. Allen based his whole claim on the blindness in the left eye. Blindness in the left eye had not been treated. It could have gone into the right eye. Dr. Block asked me, or told me that he would have to have a chest consultant before he could even treat him. Dr. Block said that they would call the chest specialist in from Lenox Hill, but I told him that we had our own chest specialist, and he wanted his number. He therefore called Dr. Schumen. Dr. Schumen and Dr. Block have treated him together. He goes first to one doctor and to the other doctor. Because both doctors have to check him each time to make sure that activation doesn't start up again. He has been on the medication since 1968. He hasn't stopped yet. He has to be fluoroscoped, sounded, tested, what have you each time he goes. He is on Terramycin because he has become allergic to the Dihydrostreptomycin. The Dihydrostreptomycin slows you.

In August 1969 he went back into the hospital from sheer exhaustion which left him with the paralysis. Mr. Allen also questioned his -- Dr. Siegel's statement about the times he had pneumonia. Dr. Siegel told him once he had pneumonia. Over the years he had pneumonia, but he didn't specifically state whether reading Dr. Siegel's statement and Dr. Schumen's statement, you can see where some of the situations coincide. My husband was never called for a chest examination. He was only called for an eye examination. His ears were never tested by the Social Security system. But all the information that is now in the file wasn't in the file when Mr. Allen's decision -- Mr. Allen makes a point of saying, "This doctor in his report -- and this doctor and their report." But Mr. Allen does not state that social security did not, in fact, get the information necessary in the case from Lenox Hill Hospital. The waivers were signed, and all the information could have been gotten at one time. But in reading the file, in the beginning, I found that most of the information from Lenox Hill was not there. In fact, it looked to me as if it had been edited. Dr. Block, Dr. Schumen, and all doctors inclusive, expected such information in total to be taken from Lenox Hill. They didn't expect that they would have to write all the information, themselves. When we went to Social Security, Social Security told us that they were not interested in the doctor's who had treated him, that they were only interested in the doctors who were treating him at the present time. Dr. Rose is no longer treating him because there is nothing he can do for his ears. Dr. Siegel said that the treatment for the eye at Lenox Hill -- and Dr. Block and Dr. Schumen followed through. I have here all the

treatments from Dr. Schumen's records from January 1, 1953 to January 2, 1969, showing the medication, reactivations, what have you. A statement from Dr. Rose about the hearing loss and that nothing can be done for the hearing loss. I have from Lenox Hill a letter stating that further information was sent to Social Security on June 2d, which was not present at the time of Mr. Allen's decision. The Appeals board letter went out the 15th of July, and within two weeks it was returned as not operable. I don't know whether I missed any, I don't know. We told them, pointed out to Mr. Allen Question 29, Question 26, Question 24, Question 20, Question 5, why and how of the lack of information. Mr. Allen made absolutely no effort to get that information. He made his decision without it, without it, that's it. I have here the numbers of the questions I pointed out at the time of the original hearing.

Q You are looking at me as though you are expecting some response.

A No, I don't. I just want to show you that I had it, that's all. You told me you were only going to ask me questions.

Q Well, I told you I didn't want this to get into a discussion or an argument between us.

A Oh, that was no good.

Q That you could present your case, that I wanted you to present your case as you see fit. Have you finished?

A I can't think of anything else. I get ready, then I forget.

Q I'm confused about that sheet you showed me, the yellow sheet which you said has questions.

A The what sheet?

Q The yellow sheet you said has questions.

A No, no. You see there, we questioned Mr. Allen. Doctor, whatever he said his name was, questioned it, too. He said he contradicted himself in his statement. He said, "Uncorrectable or not improved with glasses", meaning his eyesight, but then he went on to say, "Prognosis: no improvement, left eye." It couldn't be proven, but in the letter he did contradict himself. I questioned Mr. Allen on that. Then --

Q Did you question him during the course of the hearing?

A No, look, before. But it didn't go on the record. This is all before the hearing. He didn't put that into the record at all. The only thing that he put into the record was what he asked my husband.

Q Nothing that doesn't go on the record can be considered by a hearing examiner.

A You see, this is why I get so upset. Because I know what happened. I was there. And this is really what upset me so much. And then I went on to question why the man who evaluated the case was an eye specialist in his field. He was a surgeon with a limited practice. All of our doctors, you know their ages, their schools, their qualifications, the hospitals they attend are included. But you see on Dr. Morey's there's nothing there, not even his age. I have no idea how old he is. I haven't the slightest idea. Then we went on --

Q I'm sure Mr. Allen must have told you that he's not bound by the evaluation of the doctor or the --

A I understand--

Q Please let me finish because then the record will not be complete. I'm going to repeat. I'm sure Mr. Allen told you that he's not bound by any evaluation made by the Bureau of Disability Insurance and that he, Mr. Allen, was going to make a new decision based on the record made before him. Isn't that correct?

A. Yes.

Q All right, so that in reading in Mr. Allen's decision I don't see that he referred to this particular doctor you mention or to this doctor's evaluation.

A No, he did.

Q So your complaint is about something that happened even before the hearing was requested.

A Well, maybe I'm wrong, but don't you kind of think Dr. Morey, whoever he is, he evaluated -- in other words he -- Mr. Allen could so completely block his mind to everything that was there, and make his own decision, that's what you're telling me?

Q Well, if Mr. Allen worked the way I work, I review the medical reports, I don't review the evaluation.

A This is what, what I really want to know. If Mr. Allen can do that, that would be fine.

Q Mrs. Nugent, I'm not going to take the time to try to guess what somebody else did. Have you, before you said you couldn't

think of anything else. Have you thought of anything else you want to present to me?

A I think I covered everything.

Q Do you have any medical reports that now are not in the evidence?

A There aren't any new ones, he's just saying his condition is not improved, but has gotten worse.

Q All right then. Then you want me to find that your husband became unable to work as of March 15, 1968?

A Well, I don't want you to find anything that you don't think is true.

Q Well, is that what you're here for?

A I want you to look at the facts and evaluate the facts.

Q But is that what you're here for?

A Why I'm here. To evaluate whether a man in his particular condition at that time, not counting the fact at all that his sight -- if you're deaf, one thing; if you are blind, that's another thing. But when you have no sight in one eye, the other ear on the opposite side he can't hear out of -- do you think he can go out and be an order taker, which he can't here. It's too big a job. He can't see. This is why I'm here.

Q Mrs. Nugent, I don't think your statement is accurate. He couldn't see with his left eye, but he could see with his right eye.

A But, but--

Q Is that correct?

A Right.

Q He couldn't hear with his right ear, but he could hear with his left ear. Is that true?

A Partial loss, not totally. Not total.

Q Besides the blindness in the left eye and the impaired hearing, what else on March 15, 1968, prevented your husband from working?

A The medication that he was taking because of that chest condition.

Q How did the medication prevent him from working?

A The medication can activate the tuberculosis.

Q How did it prevent him from working?

A It prevented him from working because the doctors wouldn't let him work.

Q As a longshoreman?

A No doctor would let him do no work which amazed me completely. I was not prepared for that at all. The doctor stated, "I will not let you work." The doctor would allow him to do no work. You wouldn't believe this. That doctor -- they wouldn't let that man go to work.

Q And that doctor was doctor who?

A Doctor Schumen. He has treated him since 1948. There are letters in the file. He was not allowed to do any work.

Q Anything else?

A I know what he was taking. At that time he was taking -- I think it was every ten days he had to go to the doctor at Lenox Hill

Hospital. He had to go to see Dr. Schumen every ten days and he put him on Dihydrostreptomycin until he suffered from it. He became allergic to it. He couldn't talk. He couldn't even speak. Now, coming from the City home, by the time we got home he couldn't even speak. He took another hour before he could get his voice. Now the doctor can't treat him at all with Dihydrostreptomycin. I don't know what would happen if he got down sick.

Q All right, Mrs. Nugent. I will write a decision and mail a copy to your home. I will only send one copy. Usually when there's a representative, we send the representative and the claimant a copy, but since you both live in the same apartment, one should be sufficient. All right, if you have nothing further to say, we can close this hearing.

A I am so sorry I've been such a wreck. Is that all?

Q All right, the hearing is closed.

(The hearing was closed at 11 a.m. on March 17, 1971.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the above case before Hearing Examiner Samuel C. Berson.

Dovie L. Drummond
Dovie L. Drummond



APPLICATION FOR DISABILITY INSURANCE BENEFITS

Form approved.
Budget Bureau No. 72-R530.7
(Do not write in this space)

BROOKLYN, N. Y.

SEP 4 1968

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SUN. DIST. OFFICE

NOTICE.—(a) Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act, or (b) whoever, having received a payment for the use and benefit of another person, knowingly and willfully uses such payment for other than the person for whom it is received, is subject, under the Social Security Act, to a fine of not more than \$1,000 or 1 year's imprisonment, or both.

I hereby apply for a period of disability and/or all insurance benefits payable to me under Title II of the Social Security Act, as amended.

1. Enter your full name <i>Clement D. Dugent</i>		(Check one) <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Enter your Social Security number (If none or unknown so indicate) <i>081 18 0678</i>
2. Enter your date of birth (Show month, day, and year) <i>10/18/14</i>		Enter the name of the City and State or Foreign Country where you were born <i>Hickensack New Jersey</i>	
3. (a) Have you (or has someone on your behalf) ever filed an application for monthly social security benefits before? (If "Yes," answer (b), (c), and (d). If "No," go on to item 4). <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
(b) Kind of claim filed			
(c) Enter name of person on whose earnings record you filed other application(s)		(d) Enter Social Security Number of person named in (c)	
4. What is your disability? (Briefly describe your impairment, that is, the injury or illness that prevents, or has prevented, you from working.) <i>optic neuritis, blindness of left eye</i>			
5. (a) When did you become unable to work because of your disability?		DATE (Month, day, and year) <i>3/15/68</i>	
(b) Are you still disabled?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If "No," answer (c).)	
(c) If you are no longer disabled, enter the date you were again able to work.		DATE (Month, day, and year)	
6. Check the first block which applies to you.			
(a) <input type="checkbox"/> Confined in a medical institution other than a general hospital		(d) <input type="checkbox"/> Confined in a chair (Including wheel chair)	
(b) <input type="checkbox"/> Patient in a general hospital		(e) <input type="checkbox"/> None of the above but unable to go outside	
(c) <input type="checkbox"/> Confined in bed at home		(f) <input type="checkbox"/> Able to go outside but only with help of another person or device	
		(g) <input checked="" type="checkbox"/> Able to go outside without help	

EXHIBIT B1 (4 pages)

7. (a) Have you filed (or do you intend to file) a claim for disability benefits under any workmen's compensation law or plan? ☐ Yes ☒ No
 (If "Yes," answer (b). If "No," go on to item 8.) 55

(b) If you have filed such a claim, has there been a decision on the claim? ☐ Yes ☐ No
 (If "Yes," answer (c). If "No," go on to item 8.)

(c) Enter the amount of the weekly payment made to you AMOUNT
 \$
 (If you are receiving or have received payments on other than a weekly basis, such as bi-weekly or monthly payments, or if you have received a lump-sum payment based on your workmen's compensation claim, please indicate in "Remarks" and include the amount of such payment or payments.)

8. Did you work in the railroad industry any time on or after January 1, 1937? ☐ Yes ☒ No

9. (a) Were you in active military or naval service after September 7, 1939? ☐ Yes ☐ No
 (If "Yes," answer (b) and (c). If "No," go on to item 10.)

(b) Enter name of branch (Army, Navy, etc.), country served (if other than U.S.) and dates of service.
US Army - 1/45 - 6/1946

(c) Have you received, or do you expect to receive, a benefit from any other Federal agency? ☒ Yes ☐ No
U.A.
 (If "Yes," enter the names of all such agencies.)

10. • Enter the names and addresses of all the persons, companies or government agencies for whom you worked during the last 12 months.
 • If you worked in agricultural employment, give this information for this year and last year.
 • If you were not employed during the past 12 months, enter the information for your last period (no matter how long) of employment.

NAME AND ADDRESS OF EMPLOYER	WORK BEGAN		WORK ENDED (If still working show "Not Ended")	
	Month	Year	Month	Year
<u>United States Lines</u>	<u>11/11</u>	<u>67</u>	<u>3</u>	<u>68</u>
<u>Peer 61 - New York River, N.Y.C.</u>				
<u>T. Hogan & Sons</u>	<u>11/11</u>	<u>67</u>	<u>1</u>	<u>68</u>
<u>Peer 61 - New York River, N.Y.C.</u>				

(If you need more space, use "Remarks" space on the back page.)

11. May the Social Security Administration or the State agency reviewing your case ask your employers for information needed to process your claim? ☒ Yes ☐ No

12. Were you self-employed this year, last year, or the year before? ☐ Yes ☒ No
 (If "Yes," answer question 13. If "No," go on to item 14.)

13.

Check the year or years in which you were self-employed.	In what kind of trade or business were you self-employed?	Were your net earnings from your trade or business \$400 or more? (Check "Yes" or "No")
<input type="checkbox"/> This Year		
<input type="checkbox"/> Last Year		<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Year Before Last		<input type="checkbox"/> Yes <input type="checkbox"/> No

14.	How much were your total earnings last year? (Count both wages and self-employment income. If none, write "None")	\$ 7500.56	
15.	How much have you earned so far this year? (If none, write "None")	\$ 0.	
16.	(a) Are you married? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If "Yes," give the following information about your wife or husband.)		
	WIFE'S MAIDEN NAME OR HUSBAND'S NAME	DATE OF BIRTH (If unknown, show age)	
	Agnes Nugent	10/12/16	
		DATE OF MARRIAGE	
		11/29/41	
	If husband or wife is age 62 or over or is filing for disability benefits, enter his or her Social Security No.		
	(b) If you are a married woman, was your husband receiving at least one-half of his support from you at the time you became unable to work because of your disabling condition, or is he receiving at least one-half of his support from you now? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
17.	Your unmarried children (including natural children, adopted children, and stepchildren) may be eligible for benefits based on your earnings record if they are now, or were, in the past 12 month:		
	<ul style="list-style-type: none"> • under age 18 • age 18 to 22 and attending school • age 18 or over and under a disability (which must have begun before age 18) 		
	If you have children who may qualify for benefits under any of the above conditions, answer (a) and (b).		
	(a) Name of each such child		
	NAME OF CHILD	NAME OF CHILD	
	Thomas Nugent		
	(b) Do you wish to apply, on behalf of all the children named in item 17(a) for all insurance benefits payable to them under Title II of the Social Security Act, as amended? (You may apply even though you do not wish to be payee for a child's benefits.) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
	(If "No," enter under "Remarks" the name of each child for whom you are not applying and give your reasons.)		
18.	Answer question 18 only if you are married and your husband or wife is applying for benefits.		
	(a) Check (✓) whether your marriage was performed by: Clergyman or authorized public official <input checked="" type="checkbox"/> , or other <input type="checkbox"/> (Explain)		
	(b) Were you married before your present marriage? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	(If "Yes," give the following information about each of your previous marriages.)		
PREVIOUS MARRIAGE	TO WHOM MARRIED	WHEN (Month, day, and year)	WHERE (Enter name of city and State)
	HOW MARRIAGE ENDED	WHEN (Month, day, and year)	WHERE (Enter name of city and State)
PREVIOUS MARRIAGE	TO WHOM MARRIED	WHEN (Month, day, and year)	WHERE (Enter name of city and State)
	HOW MARRIAGE ENDED	WHEN (Month, day, and year)	WHERE (Enter name of city and State)
(Use "Remarks" space for information about any other marriage.)			
19.	Do you have a dependent parent who was receiving at least one-half of his or her support from you at the time shown in item 5(a) when you became unable to work because of your disability? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

(Over)

20. Do you authorize any physician, hospital, agency, or other organization to disclose to the Social Security Administration or to the State agency that may review this application or your continuing disability, any medical records or other information about your disability? ☒ Yes ☐ No 57

The events listed below may affect your entitlement to disability insurance benefits:

(a) Your MEDICAL CONDITION IMPROVES so that you would be able to work, even though you have not yet returned to work.

(b) You GO TO WORK whether as an employee or a self-employed person.

(c) You apply for periodic benefits under any workmen's compensation law or plan.

If you are now hospitalized -

(d) You are DISCHARGED FROM THE HOSPITAL.

21. Do you agree to notify the Social Security Administration promptly if any of the above events occur? ☒ Yes ☐ No

Answer question 22 only if (a) you are at least age 62 (or are a widow at least age 60) AND (b) you are not currently entitled to a reduced old-age insurance benefit or a reduced widow's insurance benefit. Persons at least age 62 (or widows at least age 60) may be eligible for reduced retirement benefits. If you accept such reduced benefits your payments will be permanently reduced. The amount of reduction will depend upon several factors such as, your age, whether or not your claim for disability insurance benefits is allowed, and the first month of your entitlement to benefits.

22. Do you wish this to be considered an application for any reduced benefits for which you may be eligible? ☐ Yes ☐ No

REMARKS: (This space may be used for explaining any answers to the questions. If additional space is required, attach separate sheet.)

IMPORTANT INFORMATION. PLEASE READ CAREFULLY. - A claimant for disability insurance benefits is required to submit medical evidence showing the nature and extent of his disability during the time he alleges he was under a disability. If such evidence is not sufficient to arrive at a determination, he may be requested to have an independent medical examination at the expense of the Social Security Administration. Should Social Security obtain information useful to his physician for treatment, such information may be furnished to him.

Knowing that anyone making a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full addresses.

1. NAME

ADDRESS (Number and Street, City, State and ZIP Code)

2. NAME

ADDRESS (Number and Street, City, State and ZIP Code)

SIGNATURE (Write in ink)

SIGN HERE *Clement B. Turgent*

MAILING ADDRESS (Number and Street, P.O. Box, or Rural Route)

1606 Albany Ave.

CITY, STATE AND ZIP CODE

Brem., N.Y. 11210

DATE (Month, day, and year)

9/4/68

TELEPHONE NUMBER

ENTER NAME OF COUNTY (if any) IN WHICH YOU NOW LIVE

KINGS

STATEMENT BY WIFE OR DEPENDENT HUSBAND OF DISABLED PERSON

The wife or dependent husband of an applicant for disability insurance benefits should answer the following question if present when this application is completed, and is at least age 62, or, in the case of a wife under age 62, has in her care any child named in item 17 who is under age 18 or disabled.

Do you desire this application to be an application for any social security benefits payable to you?

☐ Yes ☐ No

SIGNATURE OF WIFE OR DEPENDENT HUSBAND (Write in ink)

D

EXHIBIT

B-1



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BALTIMORE, MARYLAND 21241

58

GIVE ACCOUNT NO. 081-18-0678
WHEN WRITING ABOUT YOUR APPLICATION TO:
SOCIAL SECURITY DISTRICT OFFICE

135 East 22nd Street
Brooklyn, New York 11226

October 25, 1968

Mr. Clemente B. Nugent
1606 Albany Avenue
Brooklyn, New York 11210

Dear Mr. Nugent:

We have determined that you are not entitled to disability insurance benefits because you do not meet the disability requirement of the law. In reaching this decision we considered how much your condition has affected your ability to work. After carefully studying the records in your case, including the medical evidence and your statements, and considering your age, education, training and work experience, it has been determined that your condition is not disabling within the meaning of the law.

If your condition should get worse and prevent you from doing any substantial gainful work, you should write or call at your social security district office about filing another disability claim. Our records show that you meet the earnings requirement for disability purposes until December 31, 1972.

If you believe that this determination is not correct, you may request that your case be re-examined. If you want this reconsideration, you must request it not later than 6 months from the date of this notice. You may make any such request through your district office. If additional evidence is available, you should submit it with your request. Please read the enclosed leaflet for a full explanation of your right to question the determination made on your claim.

If you have any questions about your claim, you should get in touch with your district office. If you call in person, please take this notice with you.

Sincerely yours,

F. H. Sheel

F. H. Sheel
Director, Division of Evaluation
and Authorization
Bureau of Disability Insurance

Enclosure:
SSI-58

PLEASE READ THE OTHER SIDE OF THIS LETTER FOR IMPORTANT INFORMATION

IMPORTANT INFORMATION

Under the Social Security Act, a person may qualify for disability insurance benefits only if he meets both the earnings requirement and the disability requirement of the law. The information below explains these requirements:

The Earnings Requirement:

- A person whose disability began before age 24 meets the earnings requirement if he has social security credits for 6 calendar quarters (1½ years) of work during a 12-quarter (3-year) period ending with a quarter before age 24 in which he is disabled.
- A person whose disability began between the ages 24 and 31 meets the earnings requirement if he has social security credits for work in at least one half of the calendar quarters in the period beginning with the calendar quarter after age 21 and ending with a quarter before age 31 in which he is disabled.
- A person whose disability began at age 31 or later meets the earnings requirement if he has social security credits for 20 calendar quarters (5 years) of work during a 40-quarter period (10 years) ending in or after a quarter in which he is disabled.

If a person does not have credit for the amount of work shown above he is not eligible for disability insurance benefits.

The Disability Requirement:

A person may be considered disabled only if he is unable to perform any substantial gainful work due to a medical condition which has lasted or can be expected to last for a continuous period of at least 12 months. His impairment must be so severe as to prevent him from working not only in his usual occupation but in any other substantial gainful work considering his age, education, training, and work experience.

The decision on your claim was made by the Social Security Administration on the basis of a disability determination by an agency of the State in which you live. Physicians and other trained disability evaluation personnel in the State agency participate in making such determinations.

Definitions of disability are not the same in all government and private disability programs. Government agencies must follow the particular laws which apply to their disability programs. Therefore, a finding by a private organization or another government agency that a person is disabled would not necessarily mean that he meets the disability requirement of the Social Security Act.

No benefits may be paid to the wife, husband, or child unless the wage earner or self-employed person is entitled to disability insurance benefits.

This notice concerns only your disability application. It is not a decision as to whether retirement, survivors, or hospital and medical insurance benefits are payable.

According to your present earnings record and the date of birth you gave us, you have enough credit for work under social security to qualify you for retirement benefits at age 62.

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION



REQUEST
FOR
RECONSIDERATION

SOCIAL SECURITY ACCOUNT NUMBER

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

NAME OF CLAIMANT

CLAIM FOR (Specify type, for example, retirement, disability, etc.)

081-18-0678

Clement B Nugent

Same

60

Disability

I do not agree with the determination made on the above claim and request reconsideration.

68 NOV 13 AM 9:21

My reasons are:

Both of my doctors say that I should not return to my job as a longshoreman or hatch pass. In fact, they say I should do no work. I can no longer work because of my chest condition and eye condition. I must have complete rest.

NOTE: If the date of the notice of the determination on this claim was more than six months ago include your reason for not making this request earlier.

I am submitting the following additional evidence: (If none, write "None.")

Letters from Dr. Mirven S. Siegel, M.D.
and Charles Schuman, M.D.
Dr. Home Block 1 E 87 St. NYC

SIGNATURE OF WITNESSES ONLY

If this request has been signed by mark (X), two witnesses who know the person requesting reconsideration must sign below, giving their full addresses.

1. NAME

ADDRESS (Number and Street, City, State and Zip Code)

2. NAME

ADDRESS (Number and Street, City, State and Zip Code)

SIGNATURE (Write in Ink-First, Middle Initial, Last Name)

3
Clement B Nugent

MAILING ADDRESS (Number and Street, P.O. Box or Route)

1606 Albany Ave

CITY AND STATE

Brooklyn NY

DATE (Mo., Day, and Year)

11/8/68

TELEPHONE NUMBER

112/10

FOR OFFICE MAKING
DETERMINATION:

☐ State Agency (Route with disability folder)
☐ Payment Center

☐ Division of Foreign Claims, Balto.
☐ BDI, Balto. ☐ BDPA Attn: CWAB, Balto.

FORM SSA-561
(10-67)

Note: Take or mail completed copies to District Office, Social Security Administration.

EXHIBIT B3

CONTINUATION SHEET
FOR DISABILITY DETERMINATION

JK:esd RCH 3

62

NOTE. --- Use this form only when necessary for continuation of Item 32 of "DISABILITY DETERMINATION" or Item 3 of "CESSATION OR CONTINUANCE OF DISABILITY".

NAME	NAME OF WAGE EARNER (IF DISAB'D CHILD FILING)	SOCIAL SECURITY ACCOUNT NO.	DATE
Clemente E. Nugent		081-18-0678	11/20/68

The statement of evidence in the determination of 10/21/68, except as modified herein, is hereby incorporated by reference, but not the inferences, findings or conclusion thereon.

Claimant requested reconsideration, indicating that he is unable to work because of his eye condition and a chest impairment. The difficulty with his chest is not a question of functional loss as the claimant has no complaints of chest pain, shortness of breath, etc. and indicates that he is able to take walks, go shopping, etc. However, he indicates that the problem is that the medication he takes for his eyes may have an adverse affect on his old healed pulmonary tuberculosis.

Medical reports have been submitted by the claimant's treating physicians, indicating that the claimant had pulmonary tuberculosis in about 1950. Treating physician's reports are essentially the same as those submitted with the initial request for disability benefits and indicated that the claimant has had good healing of his tuberculosis in the past, and that the condition is fairly well controlled at present. As regards his eye impairment, there is evidence of acute optic neuritis and the claimant has hemorrhages and exudates in the fundus of the left eye. These have cleared but complete vision has not been restored in that eye. However visual acuity in the right eye with best correction is 20/40. The claimant is treated with steroids for his eye condition and it is felt that these may eventually have an adverse affect on the old pulmonary tuberculosis.

Medical evidence in the file indicates that the claimant has a loss of vision in his left eye but that his remaining visual acuity in the right eye is 20/40. He had an old case of pulmonary tuberculosis but has no pulmonary complaints at this time and had been able to return to work for some years as a longshoreman in spite of the old tuberculosis. It was not until his eye condition flared up that he stopped work. Although it is indicated that the medication he is taking for his eye impairment may eventually have an adverse in the sense of reactivating his tuberculosis, it is indicated that at the present time this is fairly well controlled on anti-tuberculous medication. Therefore, as he does not have significant pulmonary loss and since he has good remaining vision in his right eye, it is felt that he does not have an impairment or combination of impairments which would prevent him from returning to work. He has had experience as a hatch-boss which involves supervising and directing 20 men on the dock. He could engage in this work activity. Accordingly, application is denied.

These findings revise the determination of 10/21/68.

PROFESSIONAL QUALIFICATIONS

63

Physician's Name: Jerome Morey

Physician's Office Address: 1150 Park Avenue
New York City 10028

Source of Information: Medical Directory of New York State, 1963-1964

Pages: 255

Medical School and Year of Graduation: Long Island College of Medicine 1938

Type of Medical Practice and/or Specialty:

General surgery - major (practice limited to specialty)

Subspecialty:

Certification by American Boards in Medical Specialties and by
National Board of Medical Examiners:

Diplomate, American Board of Surgery

Specialty Colleges: Recqualified Fellow of International College of Surgeons

Hospital Affiliations: Associate Surgeon at Knickerbocker

Medical Societies: Academy-International of Medicine

Other Information:

EXHIBIT B5



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BALTIMORE, MARYLAND 21241

DI:R:1A

ACCOUNT NO. 081-18-0678

DATE DECEMBER 5 1968

NOTICE OF RECONSIDERATION DETERMINATION

64

Mr. Clemente Nugent
1606 Albany Avenue
Brooklyn, New York 11210

Dear Mr. Nugent:

Upon receipt of your request for reconsideration, we had your claim reevaluated by a physician and a disability examiner in the State agency which works with us in making disability determinations. All the evidence in your case has been carefully evaluated; this includes the medical evidence and the additional information received since the original decision. This new evaluation was then independently reviewed in the Social Security Administration. On the basis of the evidence, and considering your age, education, training and work experience, it has been determined that the previous determination was proper under the law.

To be considered disabled for social security purposes a person must be unable to engage in any substantial gainful activity due to a medical condition which has lasted or can be expected to last for a continuous period of at least 12 months. His impairment must be so severe as to prevent him from engaging not only in his usual occupation but also in any other kind of substantial gainful work, considering his age, education and work experience. This inability to work must exist at a time when another requirement, called the earnings requirement, is met.

In applying for disability benefits you stated you became unable to work in March 1965 because of an eye condition and a chest impairment. Your records show you have a twelfth grade education and have worked as a longshoreman and hatchboss.

The medical evidence includes hospital records and information from your personal physicians. This evidence reveals that you have loss of vision of your left eye, however, the visual

cc:

District Office, Brooklyn, N. Y. 11226

VSelenix:myv 12-2-68

EXHIBIT B1. (2pgs)
6 (2 pages) VS/hd 12-3-68

acuity in the right eye is 20/40 with best correction. Although the medication you are taking for your eyes may eventually have an adverse effect in the sense of reactivating your tuberculosis, this is fairly well controlled at this time. It is indicated you are able to stand, walk and sit without undue difficulty. The evidence does not establish an impairment of sufficient severity which would preclude you from engaging in your usual work.

According to the amounts credited to your social security account at the time you filed your application, you meet the earnings requirement for disability purposes until December 31, 1972. Any additional earnings which may be credited to your account after the time you applied may, of course, extend this date.

If your condition should get worse and prevent you from doing any substantial gainful work, you should write or call at your social security office about filing another disability application.

As you were previously informed, this determination concerns only your disability application. It is not a decision as to whether benefits will be payable to you at retirement age.

According to your present earnings record and the date of birth you gave us, you have enough credit for work under social security to qualify you for retirement benefits at age 62.

We hope this satisfactorily explains the reason for the determination in your case. If you believe that the reconsideration determination is not correct, you may request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. If you want a hearing, you must request it not later than 6 months from the date of this notice. You should make any such request through your Social Security District Office, 135 East 22nd Street, Brooklyn, New York 11226. Read the enclosed leaflet BHA-1 for a full explanation of your right to appeal.

Sincerely yours,

John E. Bluett
Director, Division of Reconsideration
Bureau of Disability Insurance

Enclosure:
BHA-1

Form SS-5
 TRI RY DEPARTMENT
 INS AL REVENUE SERVICE
 (Revised June 1940)

APPLICATION FOR SOCIAL SECURITY ACCOUNT NUMBER
 REQUIRED UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT
 READ INSTRUCTIONS ON BACK BEFORE FILLING IN FORM

[081-18-0678]

EACH ITEM SHOULD BE FILLED IN. IF THE INFORMATION CALLED FOR IN ANY ITEM IS NOT KNOWN, WRITE "UNKNOWN"

DO NOT WRITE IN THE ABOVE SPACE

PLEASE PRINT WITH INK OR USE TYPEWRITER

1. CLEMENT BENNETT NUGENT
 WORKER'S FIRST NAME MIDDLE NAME (IF YOU HAVE NO MIDDLE NAME, DRAW A LINE) LAST NAME
 (MARRIED WOMAN—FOR MIDDLE NAME, GIVE LAST NAME BEFORE MARRIAGE; FOR LAST NAME, GIVE HUSBAND'S LAST NAME)

2. _____
 FULL NAME UNDER WHICH YOU WORK, IF DIFFERENT FROM NAME SHOWN IN ITEM 1

3. 352 EAST 32 STREET N.Y. NY
 WORKER'S PRESENT HOME ADDRESS (STREET AND NUMBER) (CITY) (STATE)

4. HAVE YOU EVER BEFORE HAD A SOCIAL SECURITY ACCOUNT NUMBER CARD? NO ☒ YES ☐
 (CHECK (✓) WHICH AND IF ANSWER IS "YES" ENTER PLACE AND DATE OF ORIGINAL FILING AND REASONS FOR FILING AGAIN)

5. 26 6 OCT 18 14 HACKINSACK BERGAN N.Y.
 AGE AT LAST BIRTHDAY DATE OF BIRTH (MONTH) (DAY) (YEAR) (SUBJECT TO LATER VERIFICATION) PLACE OF BIRTH (CITY) (COUNTY) (STATE)

6. SEX: MALE ☒ FEMALE ☐ 9. COLOR OR RACE: WHITE ☒ NEGRO ☐ OTHER ☐ 10. MARRIED ☐ SINGLE ☒ WIDOWED ☐ DIVORCED ☐ SEPARATED ☐
 (CHECK (✓) WHICH) (CHECK (✓) WHICH) (SPECIFY) (CHECK (✓) WHICH)

11. _____
 BUSINESS NAME OF PRESENT EMPLOYER

12. _____
 BUSINESS ADDRESS OF PRESENT EMPLOYER (STREET AND NUMBER) (CITY) (STATE)

13. PATRICK S. NUGENT 14. EILEEN MURPHY
 FATHER'S FULL NAME, REGARDLESS OF WHETHER LIVING OR DEAD MOTHER'S FULL NAME BEFORE MARRIAGE, REGARDLESS OF WHETHER LIVING OR DEAD

15. SELF 16. HOW WERE YOU PAID? _____
 DATE LAST FULL TIME JOB ENDED—LAST OCCUPATION—LAST INDUSTRY (SEE INSTRUCTIONS) SPECIFY (EXAMPLES: "DAILY WAGE," "SALARY," "COMMISSION," "PIECEWORK")

17. 10/10/41 18. Clement B Nugent
 DATE SIGNED APPLICANT'S WRITTEN SIGNATURE (FIRST NAME) (MIDDLE INITIAL) (LAST NAME)

RETURN COMPLETED APPLICATION TO, OR SECURE INFORMATION ON HOW TO FILL IN APPLICATION FROM, NEAREST SOCIAL SECURITY BOARD FIELD OFFICE. THE ADDRESS CAN BE OBTAINED FROM LOCAL POST OFFICE

EXHIBIT B7

CASE NO. _____

EXHIBIT 7

[illegible]

EXHIBIT B8

Oct 27, 1968

Letter 071-17-1677 ⁶⁸

Dear Sir -

As I am still unable to return to work. I would like you to start the process of Re-evaluating my Application for Benefits - I do not know when I can return to work nor does my Doctors even make a guess - any other information I will gladly give you -

The question is the Decision made as I still cannot work.

Clement B. Nugent

Cyrus T. Nugent

EXHIBIT B9

CASE NO. _____

EXHIBIT 9

Dec 14, 1968

To Whom It May Concern:

I am requesting a Review of Claim 081-12-0672. Because of the uncertain weather at this time of year - 69

Three Doctors have told me I cannot go back to my work. My Chest man is most adamant on my not returning to any work while I am under medication - I saw my Chest man Dec 12. I will see him again Dec 19 - I have been seeing him weekly since the middle of April - I saw my Neurologist December 5, and will see him again January 16 - I have been under constant treatment since March 23 and have not worked since March 15 - because of the pressure behind my eye. I missed many days of work before that.

I am qualified for Benefits under Social Security Law as stated in "New Medicine and Social Security Benefits", put out by Alexander and Alexander Inc. personal counselor Division pages 35 & 36 - under 'Disabled Persons' - I am fully insured **EXHIBIT B10 (4 pgs)**

My Doctors regard loss of your consciousness as a small price to pay for my work - I have no income except a small compensation for a Service Connected Disability - my Savings are fast running out - I do not know why I am paying the cost of fees for medical and medical advice when you people turn around and say my Doctors are wrong - So far that is the conclusion you have come to - How I wasted all this time and money - If so it does not feel well for my Doctors - or their Profession.

You make no mention in your Decision of the medication taken for my Chest condition - which according to your judgment is well under control - if caught in time and treated until the danger passed is past most conditions will respond to treatment - In my case the longer I am under treatment the more dangerous my condition (T.B. can be arrested - it can never be cured -) I take the anti T.B. drug three times a day - Streptomycin is injected once weekly - Insulin is taken to line my stomach before I take the prednisone which is given for two weeks then stopped for two weeks (because of my Chest condition) I take six pills one day four the next two the next - then we start all over again. I am a workaholic

CASE NO.

EXHIBIT 10 (4 pgs)

Medicine Chest - Besides this I have to undergo periodic ex-rays not to mention fluoroscopy - urinalysis and other test that have to be done to make sure the medicine has not affected my blood or activated my chest condition. - If as you state ⁷⁰ my chest condition is so well under control - why do I have to ~~submit~~ ^{submit} to all these test and treatments? The pills mentioned are only medicine.

My eyes are such that I now have to wear dark glasses at night - because of the glow from car lights (I am not allowed by Doctor orders to drive myself) I have missed being hit by cars several times - My dear son did not realize just how bad my situation was until he saw this happen - I ran into a fence last week and tore my jacket - so we had to blow out the candles Thanksgiving Day because the light bothered my eyes - I do not go out alone at night because of this -

I surely am fit to return to Longshore Work - running up and down ladders and gangways especially those having no hand rails - too the ho. for scuttling back and forth - also cargo coming at you from all directions - I do not claim I will never be able to work again - I have been trained for none - I worked in the Shipyard's before I was drifted - who at this time would hire a man of my age - who would have to carry around a Medicine Cabinet - because of my chest condition my chances are limited any way you look at it - Most employers require a physical in these days and age - they would see my chest plate and note a partially collapsed lung then the question is - why - cause - effect etc - I would not be employed near children or food without having weekly or monthly test - which in themselves could cause me more trouble -

I have been under the care of this same Chest man for many years - I have had many reactivations kept under control by medicine - don't you think he would have told me many years ago to go out on P.P. if he thought

it necessary - why now does he forbid me to return to work - in his words 'I will not let you go back to work' the medicalist is being given in that dangerous to my condition -

71

I have three children who have been denied my companionship since they were children - must I again subject them to monthly 7-days as well as keeping their friends from visiting our home - because you at S.S. think I should take the chance and return to work - against my Doctor's orders - or must I be confined to bed for a long period of time in order to collect the Benefits I am entitled too - I spent eight months in the Hospital first time round - I have a sixteen year old boy who because of his age is most susceptible to this disease - your Doctors will readily admit that babies and teenagers are most likely to pick up this disease - I am well aware of this fact - Having had to see my daughter go through a period of wastefulness records are at the Bed of Health - Some of the reasons why this has upset me so -

Had I wanted to take off the Government I could have kept my 14s 6 Disability Rating for my Service connected Disability Tuberculosis - but I preferred and did work for my living - I do not believe in counting trouble by returning to work against Doctor's orders -

If as you state I should or could return to my Lancashire Work - were I to suffer further injury - I would collect no Benefits as the handicap already exists - if you are aware of Lancashire Work it is in the High Risk Category in Insurance Ratings -

I am asking for a Review of the facts on hand

My Chest man is sending further information — if it
should come to me I will forward it to you —
Clement B. Guggent

72

EXHIBIT B-10

RECEIVED
JAN 10 1944
FBI - NEW YORK



DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form approved.
Budget Bureau No. 72-R442.3.

73

STATEMENT OF CLAIMANT OR OTHER PERSON

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

Clemente Nugent

SOCIAL SECURITY ACCOUNT NUMBER

081-18-0678

NOTICE.—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Understanding that this statement is for the use of the Social Security Administration, I hereby certify that—

I also worked for:

I. T. O. (Int'l Tunnel & Operator) - Pier 40 No River, Nyc, Ny - a few days in 1968.

Grace Lines - Pier 57-58 No River, Nyc, Ny. 1947 - on + off to 11/11/67.

Cunard Line - Pier 51 No River; Nyc, Ny. for a short time in 1968.

There were several firms where I "stayed up" for + meant 1 or 2 days work.

I also worked for N.Y. Shipping Co/Broad St Nyc - 1947-1968.

EXHIBIT B11 (2 pgs)

Knowing that anyone making a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

If this statement has been signed by mark (X), two witnesses who know the person making this statement must sign below, giving their full addresses.

1. Name

Address (Street number, City, State, and ZIP Code)

2. Name

Address (Street number, City, State, and ZIP Code)

Signature (Write in ink--First, Middle Initial, Last Name)

Clement B. Musint

Mailing address (Number and Street, P.O. Box or Rural Route)

1606 Albany Ave

City

State

ZIP Code

Bklyn NY

11210

Date (Mo., Day, and Year)

9/4/68

Telephone No. (If none available, write "None")

Gr-4-875

R - 031-13-0677

Jan 18, 1969

Dear Miss Rosen —

My wife called and informed you that I was confined to bed on December 30, 1967 — which was the day you had scheduled for me to appear at your office — this appointment was made in your letter of December 23, 1968. Therefore I did not ignore your request —

EXHIBIT B12 (2 pgs)

On December 30, 1967 — as a result of the call from my wife — you sent me the forms for my appeal — On reading them I understood that I had six months from the time of Re-evaluation to file them — If that is not so — I will have them sent out as soon as

EXHIBIT B12 (2 pgs)

12 (2 pgs)

DATE OF REPORT	PAGE OF	<input type="checkbox"/> OTHER (Specify) <input type="checkbox"/> CLAIMS <input type="checkbox"/> CLERICAL <input type="checkbox"/> FR <input type="checkbox"/> CR	SIGNATURE
			DISTRICT OFFICE

76

possible -

I will be unable to be at your office January 23, 1969 because of the uncertain weather conditions and the further complications to my condition should I catch cold -

I hope this has not caused you any inconvenience -

Clement B. Nugent

DO NOT WRITE IN MARGIN

☐ DO
CONTACT

FACT

ACCOUNT NUMBER (and symbol)

OTHER

WE OR SE

PERSON CONTACTED AND ADDRESS(ES)

(USE INK OR TYPEWRITER)

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

REPORT OF CONTACT

Jan 24, 1924

To Whom it May Concern -

As I stated in my request for a Hearing - I will not be able to attend - because of the uncertain weather at this time of the year -

In reading my statements - you will find that should I catch cold - I would be creating further trouble -

Clement B. Gurgent

EXHIBIT B13

CASE NO. _____

EXHIBIT

13

REPORT OF DISABILITY INTERVIEW
(Write Legibly)

OFFICE

135 E 22 St Bklyn

DATE

9/4/68

CONTACT MADE

☒ IN PERSON
☐ TELEPHONE

PLACE OF CONTACT

☒ DO ☐ CS
☐ HOME ☐ OTHER

78

ACCOUNT NUMBER

081-18-0678

CLAIMANT'S NAME

Clement B. Dugent

WAGE EARNER'S NAME (If not the claimant)

PERSON(S) CONTACTED

☒ CLAIMANT☐ OTHER

(If other, show name, address and relationship to a claimant.)

NATURE OF INJURY, OR ILLNESS

optic neuritis, blindness left eye

CURRENT AGE

53

HIGHEST GRADE COMPLETED

H.S.

OTHER TRAINING

None

JOB TITLE (Principal occupation)

Longshoreman

TYPE OF BUSINESS OR INDUSTRY

Shipping

INTERVIEWER'S SIGNATURE

D. Meyer

☐ CR T ☐ FR☐ OTHER

I. ONSET OF IMPAIRMENT

B. DATE INJURY OR ILLNESS FIRST BOTHERED CLAIMANT

1/1/68

C. DATE CLAIMANT STOPPED WORKING

3/15/68

Describe effect of impairment on work when condition first bothered claimant.

- Symptoms
- Job duties
- Working conditions
- Attendance

Describe significant changes (with dates) until work stopped.

- Symptoms
- Job duties
- Working conditions
- Attendance

Give claimant's reasons for stopping work.

Explain if AOD later than date claimant stopped work.

Sometime in January, 1968 he found he couldn't read too well with glasses. From then on he began to realize he couldn't see well, to the left side. If he closed his right eye he couldn't see specific features, just general things like colors. With both eyes open he feels constant "pressure" on the eye, same amount, not lesser or greater. In early March he made an appt. to see the (Ophthalmologist) which was made for March 11, 1968. On the interim there was a strike at his place of work on March 15. When he saw the Dr. he referred him to family Dr. stating that he would rule out optic neuritis & suggested his seeing neurologist. He entered Lenox Hill Hospital under the care of Dr. Block, neurologist.

Has claimant worked since the alleged onset date? (If "Yes," complete Form OA-D821.)

☐ YES☒ NO

If any apply, the decision will most likely rest on the medical reports or SGA.

CHECK ANY OF THE FOLLOWING THAT APPLY (If any of the items are checked, do not complete pages 2, 3, or 4.)

☐ Is engaging in SGA☐ Alleges progressive cancer☐ diabetes or Buerger's disease☐ Is hospitalized for a condition related to the alleged disability☐ Is unable to speak, or to see, or to hear☐ Has lost use of a leg because of a fractured vertebrae☐ Loss of use of at least two limbs

CASE NO.

EXHIBIT

14 (8 pages)

II. PROGRESSION OF CONDITION

Have there been any changes in symptoms, physical limitations, or activities since work stopped? ☒ Yes ☐ No

79

He is now able to see with right eye covered for longer length of time before specific vision moves, but he can make out shapes only. It seemed to get a little better in August. It has not improved since.

If yes, describe all changes in condition (with dates) since work stopped.

III. EFFECTS OF CURRENT CONDITION

He feels constant unchanging pressure in left eye. He is ^{not} able to watch T.V. for more than 3 minutes at a time. He reads for a maximum of 5 minutes at a time. He drove in the past (which he usually rested) he no longer drives at all, but under Dr's orders "Under no condition" & his own feelings. He also has a case of arrested T.B. & usual medication for his present condition (Cortisone) tends to ^{weaken} his voice and loses his hearing, it also tends to activate T.B. so that he is limited in his use.

Describe current condition

- Symptoms—Type, frequency, severity
- Normal Activity limitations
- Other limitations

Physician placed limitations

- Bed rest
- Special therapy
- Diet
- Restricted activity
- Etc.

IV. DAILY ACTIVITIES

He lives with wife and 3 children in private one family house, upstairs downstairs. He usually gets up at 5:30 A.M. (bedroom upstairs) goes downstairs, makes himself tea or coffee. Walks about 10 blocks to get newspaper. He walks back, and wakes the children. He takes Miloxi, Prelexone & P.A.S. at 10 AM, 2 P.M. & 8 P.M. He makes himself breakfast consisting of coffee & cereal.

Describe activities of a typical day

- Physical
- Mental
- Contact with others

Describe assistance required in caring for personal needs.

Describe current living arrangements.

CHECK ANY OF THE FOLLOWING THAT APPLY (If any of the items are checked—Complete Observations (Section VII) and Omit Sections V and VI Only)

- | | |
|--|--|
| <input type="checkbox"/> Is house confined because of a physical impairment | <input type="checkbox"/> Parkinson's disease with marked tremors or propulsive gait. |
| <input type="checkbox"/> 3 months after stroke claimant has weakness of 2 limbs, or severe speech or memory defect with marked loss of use of one limb | <input type="checkbox"/> Multiple sclerosis with staggering gait, marked tremors or visual difficulties |
| <input type="checkbox"/> Arthritis with gross deformity of 2 or more limbs | <input type="checkbox"/> Other severe, observable limitations (Describe under Observations (Section VII).) |

If any apply, a description of the impairment and observations are needed to supplement the medical reports.

(If Additional Space Is Needed Use Form OAC-5002)



DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form approved.
Budget Bureau No. 72-R442.3.

80

STATEMENT OF CLAIMANT OR OTHER PERSON

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

Clemente Sargent

SOCIAL SECURITY ACCOUNT NUMBER

081-18-0678

NOTICE.—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Understanding that this statement is for the use of the Social Security Administration, I hereby certify that—

Conto. II. SSA 401 -

The children make their own breakfast. Everyone does their own dishes. His routine varies, he might go to grocery store (super mkt) abt 10 block away, does family shopping (some of it). He usually carries the bundle back from the store. He stops sometimes at friends houses along the way and visits with them. He sits in backyard listening to radio, and sunning himself. He takes naps at different times at on different days, usually on livingroom floor. His wife and children do all the housework & bed-making etc. He usually has lunch (sometimes made by self, sometimes by wife) at 1 P.M. He has dinner at about 6 P.M. prepared by wife. He sits outside and talk with neighbors after dinner. He goes to bed between 9:30 - 10 P.M. at night.

Knowing that anyone making a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

If this statement has been signed by mark (X), two witnesses who know the person making this statement must sign below, giving their full addresses.

1. Name

Address (Street number, City, State, and ZIP Code)

2. Name

Address (Street number, City, State, and ZIP Code)

Signature (Write in ink—First, Middle Initial, Last Name)

D

Mailing address (Number and Street, P.O. Box or Rural Route)

1606 Albany Ave

City

State

ZIP Code

Biloxi, WY

11210

Date (Mo., Day, and Year)

9/14/68

Telephone No. (If none available, write "None")

4-8755



DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form approved.
Budget Bureau No. 72-R442.3.

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STATEMENT OF CLAIMANT OR OTHER PERSON

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

Clemente Nurgent

SOCIAL SECURITY ACCOUNT NUMBER

081-18-0678

NOTICE.—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a \$1,000 fine or 1 year of imprisonment, or both.

Understanding that this statement is for the use of the Social Security Administration, I hereby certify that—

Cont: I - SSA-401

for diagnostic procedure for possible brain tumor. He was there from 3/23/68 to 4/12/68. They determined at that time that he did have optic neuritis and blindness of the left eye. He did not return to work because he must be able to see all around him, down in the "hald" or at the dock he had to see if property was coming 'at' him. His treatment

Knowing that anyone making a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

If this statement has been signed by mark (X), two witnesses who know the person making this statement must sign below, giving their full addresses.

1. Name

Address (Street number, City, State, and ZIP Code)

2. Name

Address (Street number, City, State, and ZIP Code)

Signature (Write in ink—First, Middle Initial, Last Name)

Mailing address (Number and Street, P.O. box or Rural Route)

City

State

ZIP Code

Date (Mo., Day and Year)

Telephone No. (If none available, write "None")

V. WORK EXPERIENCE

84

List all types of jobs held in 15 years before onset

- Job title
- Approximate dates worked
- List all job titles and dates worked since claimant began working where claimant
- Is age 55 or older, and
- Has 6th grade education or less, and
- Performed only arduous unskilled labor

*U.S. Marine longshoreman since 1947 to 3/68
out from 1948-51 with TB, 51-5 with relapse*

Did claimant's last job before onset involve an occupation different from the principal job?
(If "Yes," describe in Section VI of a separate SSA-401.)

☐ Yes ☐ No

VI. PRINCIPAL JOB (Vocational Description)

JOB IDENTIFICATION

APPROXIMATE DATES WORKED: *8/47-3/68 (1948-51) (TB)*
HRS./DAY: *8 hrs.*
DAYS/WEEK: *3-4 days*
RATE OF PAY OR AVERAGE EARNINGS: *\$7.00 PER year*

B. PHYSICAL DEMANDS

Describe each "Yes" item in terms of:
• Weight
• Distance
• Time
• Frequency
• Etc.

Use space for narrative description of physical demands where:

- Items above are not appropriate
- Supplemental description of item(s) would be helpful (e.g., human or machine assistance required to move heavy weights.)

- Lifting ☒ YES ☐ NO How much in lbs.? *200-500 lbs. varied (2 men at a time)* How often? *2 hrs. 8 hrs.* How High? *about 3 feet*
- Carrying ☒ YES ☐ NO How much in lbs.? *70* How often? *once a week* How far? *5-20 feet*
- Pushing/pulling ☒ YES ☐ NO How much in lbs.? *500* How often? *varied* How far? *20-20 ft*
- Standing ☒ YES ☐ NO How much time/day? *8 hrs.*
- Walking ☒ YES ☐ NO How much time/day? *8 hrs.*
- Sitting ☒ YES ☐ NO How much time/day?
- Climbing ☒ YES ☐ NO How high? *over 40 feet* How often? *4 times a day*
hold ladder
- Stooping, bending and/or kneeling ☒ YES ☐ NO How often and/or how long? *all day long*
- Describe arm and hand manipulation in terms of (1) degree of coordination needed, (2) whether movements are gross or fine, (3) how often, and (4) how long.
Constant use of arms & hands for gross movements of lifting, pulling, etc. Must constantly be alert with left hand to what's going on, to get out of way, of things that might hit him, a drop, or coming at him
- Driving ☐ YES ☒ NO Ho

(If Additional Space Is Needed, Use)

7

VI. PRINCIPAL JOB (Vocational Description) - continued

85

- ☒ Dust ☒ Noise ☒ Exposure to Elements ☒ Extremes in Temperature ☒ Work Pressure ☐ Dampness

☐ No adverse working conditions

In holds of ship there is a great deal of dust, noise, machinery used in loading & unloading, work outdoors, and sometimes in refrigerated holds. There is constant pressure to keep on the move, keep the job going.

Since 11/67 - he "shape up" for job of assigned job moving general cargo from ship to dock, from dock to ship. There is usually a hatch boss, 2 or 3 bosses on the ship. In fact he had plenty job, no shape up, but from closed pier.

1. Training - other than on-the-job received ☐ Yes ☒ No
2. Special qualifications or skills required ☐ Yes ☒ No

3. Supervision of others required ☒ Yes ☐ No

C. WORKING CONDITIONS

Describe each item checked except "No adverse working conditions"

D. JOB DUTIES

Describe fully each of the duties performed by the claimant in a typical day, including the amount of supervision received.

E. REQUIRED SKILLS

Describe all "Yes" answers fully.

In past for these lines, he has been a hatch boss. He was in charge of 20 men, & every hatch they gave him. He directed & assigned duties to these men.

VII. OBSERVATIONS

- Sight ☐ Yes ☒ No
Reading ☐ Yes ☒ No
Responding ☐ Yes ☒ No

- Hearing ☐ Yes ☒ No
Use of hands and arms ☐ Yes ☒ No
Writing ☐ Yes ☒ No
Speaking ☒ Yes ☐ No

- Comprehending ☐ Yes ☒ No
Breathing ☐ Yes ☒ No
Sitting ☐ Yes ☒ No
Walking ☐ Yes ☒ No
Other ☐ Yes ☒ No

Check each item to the left to indicate whether or not any difficulty was observed.

Claimant seemed to lapse into almost whispering during most of interview. He came to D.O. with wife by train.

Describe fully

- General appearance
- Behavior
- Outward attitude
- Circumstances surrounding the interview
- ALL ITEMS CHECKED "YES."

EXHIBIT

B-14



REPORT OF CONTINUING
DISABILITY INTERVIEW
(Write Legibly)

OFFICE <i>F. Lathrop</i>	DATE <i>11/8/68</i>
CONTACT MADE <input checked="" type="checkbox"/> IN PERSON <input type="checkbox"/> TELEPHONE	PLACE OF CONTACT <input checked="" type="checkbox"/> DO <input type="checkbox"/> HOME 86 <input type="checkbox"/> CS <input type="checkbox"/> OTHER

WAGE EARNER'S NAME <i>Clement B. Nugent</i>	ACCOUNT NUMBER <i>081</i>	CLAIMANT'S NAME (when claimant is not wage earner) <i>18-0678</i>
PERSON(S) CONTACTED <input checked="" type="checkbox"/> CLAIMANT <input type="checkbox"/> OTHER (If other, show name, address and relationship to claimant)		
INTERVIEWER'S SIGNATURE <i>A. R. Riser</i>	<input checked="" type="checkbox"/> CR <input type="checkbox"/> FR <input type="checkbox"/> OTHER	

I. MEDICAL CARE AND TREATMENT

Has the claimant been examined, treated, or hospitalized since the last application or last continuing disability investigation? ☒ YES ☐ NO (If "Yes," complete the next item.)

Identify all sources that have treated or examined the claimant since the last application or continuing disability investigation, whichever is later.

Describe treatment and limitations placed by the claimant's physician.

Describe periods of home confinement

- ☐ Dates confined
- ☐ Causative condition

NAME, ADDRESS, AND PHONE OF PHYSICIAN, HOSPITAL OR CLINIC	DATES WHEN CLAIMANT SEEN
<i>Charles Schuman MD</i> <i>40 Park Ave.</i> <i>New York 10016</i> <i>MO 50174</i>	<i>11/2/68</i>
<i>Mervin S. Siegel</i> <i>3120 Glenwood Road</i> <i>Bklyn 11210</i> <i>Dr. Jerome Block 1E 87 ST NYC</i> <i>10/31/68</i>	<i>11/7/68</i> <i>0246827</i>
<i>Claimant takes prednisone every week. He takes theptomycin. Chlorpromazine advised complete rest. Claimant takes P.H.S.</i>	

II. PROGRESSION OF CONDITION

If yes, describe fully all changes in condition (with dates) since last interview.

Have there been any changes in symptoms, physical limitations, or activities since the last interview? ☐ YES ☒ NO

EXHIBIT *B15 (2 pgs)*

CASE NO. *15 (2 pages)*

EXHIBIT *15 (2 pages)*

III. CURRENT CONDITION

87

Claimant must have complete rest. He cannot work at all.

Describe in the words of the claimant how his condition currently interferes with his ability to work.

IV. DAILY ACTIVITIES

Claimant gets up, gets dressed, takes a walk. He goes shopping.

Describe only the activities of a typical day that have changed since they were last reported.

- Physical
- Mental
- Contact with others

Describe assistance required in caring for personal needs.

V. EFFORTS TO WORK - Has the claimant performed any work since the established onset date that is not described in the file? ☐ YES ☒ NO (If "Yes", complete an OA-D821 for each job)

VI. VOCATIONAL REHABILITATION - Is the beneficiary being considered for or receiving services from or through the State Vocational Rehabilitation Agency?

☐ YES ☒ NO (If "Yes," record (1) the name and address of the counselor and servicing office, (2) the type of services being received.)

VII. OBSERVATIONS - Are the alleged impairment(s) observable? ☐ YES ☐ NO

Sight	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Hearing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Comprehending	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Reading	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Use of hands and arms	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Breathing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Responding	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Writing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Sitting	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		Speaking	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Walking	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
				Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Check each item to the left to indicate whether or not any difficulty was observed.

Claimant took bus to P.O.

Describe fully

- General appearance
- Behavior
- Outward attitude
- Circumstances surrounding the interview
- All "Yes" checked items above.

BEST COPY OBTAINABLE

Phono GE 4-4135

12-12-1968

M. Clement Nugent
1606 Albany Ave
GLENWOOD PHARMACY

PURE DRUGS
and CHEMICALS

TOILET ARTICLES
URINE, SPUTUM
& BLOOD ANALYSIS

CUT RATE
DRUGS and COSMETICS

L. LEVINSON

2109 NOSTRAND AVENUE

COR. GLENWOOD RD.

BROOKLYN 10, N. Y.

VACCINES
ANTITOXINS
PHYSICIANS
and HOSPITAL
SUPPLIES

To whom it may concern
 My. Clement Nugent
 has been filling
 prescriptions for
 Prednisone and
 Zonitryl at this
 Pharmacy and Maslof
 since April 1968

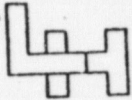
L. Levinson
 Prop.

EXHIBIT B16

CASE NO.

DATE

16



Founded 1857

LENOX HILL HOSPITAL

100 EAST 77TH STREET / NEW YORK, N. Y. 10021 / TRAFALGAR 9-8000

September 16th 1968

Social Security Administration
1657 Broadway
New York 19 NY

Re: 081-18-0678

Clement Nugent

Gentlemen:

We are enclosing photocopy
of the above patient's admission to the Hospital
as per your request of recent date.

We trust this
information is satisfactory.

Yours very truly,

Estelle Hernandez
Estelle Hernandez
Medical Correspondence

EXHIBIT B17 (6 pgs)

CASE NO.

EXHIBIT

17

(6 pgs)

1 NAME	HUGENIT, CLEMENT (MR) (4425)		JOURNAL NO.	3592	HISTORY NO.	346902
2 ADDRESS	1606 ALBANY AVE		ROOM	911	ACC.	60
3 CITY	BKLYN, NY 11210	PHONE	GE 4 8755			
4 DATE ADMITTED	3 23 68	TIME	6:30PM	DATE DISCHARGED	4-12-68	TIME
5 ATTENDING PHYSICIAN	DR BLOCK		REFERRING PHYSICIAN	SAME		
6 SERVICE	NEUROL		PREV. ADMS.	NONE		
7 BIRTHPLACE	NJ	BIRTHDATE	10 18 14	AGE	53	MARITAL STAT
8 RACE	W	SEX	M	RELIGION	C	
9 PATIENT'S OCCUPATION	LONGSHOREMAN		ADMITTING DIAGNOSIS	BRAIN TUMOR		
10 NEAREST RELATIVE OR FRIEND	ANGES		RELATIONSHIP	WIFE		
11 STREET AND NO.	SAME		PHONE	SAME		
12 FATHER'S NAME	PATRICK		BIRTHPLACE	IRELAND		
MOTHER'S MAIDEN NAME	ELLEN MURPHY		BIRTHPLACE	IRELAND		
SOCIAL SECURITY NO.			VALUABLE EVIDENCE NO.	NONE		
			ADMITTED BY	J. D.		

LENOX HILL HOSPITAL

NEW YORK, N. Y.

90

TOP SHEET

RESULTS:

- ☐ RECOVERED
- ☒ IMPROVED
- ☐ UNIMPROVED
- ☐ DECEASED
- ☐ AUTOPSY

PREVIOUS HOSPITAL TREATMENT

Pulmonary T.B.

MANNER OF DISCHARGE

Ambulatory

FINAL DIAGNOSIS

Optic neuritis & retinal hemorrhages, left

962-940

OPERATIONS

L.P.

left carotid angiogram

DATE OF OPERATION

3/24/68

3/29/68

SURGEON

Block & Schapiro

SIGNED

[Signature]

M. D.

RESIDENT

M. D.

ADMIT 189

DUGENT CLEMENT
344902 911 M
3492 SP 53
BLOCK - 2 23 50

HISTORY NUMBER

91

3-23-68 Pt is a 53yo W/M longshoreman on his 1st AMH
Adm with Hx of "pressure behind the eye"
Pt states he first noticed a sensation
of pressure behind the eye - it was a
Assoc blurred vision & occasional
diplopia. The sympt have not gotten worse
according to pt. Pt has been on no meds.
No Hx of H-N, Vertigo, dizziness, spots,
parosmia, paresthesias, or weakness.
Pt states he has had occas photophobia.
Pt saw an ophthalmologist & LMD
2d ptr & was referred to Dr Block.

PH T.B. - last Active 15 yrs ago - follow g 6 MOS
by Chest X-Ray

Wt stable

Smokes 1 pkg / day ETOH min

No allergies

On no meds

Hemorrhoidectomy 10 yrs ago

Distal digit of 3rd (R) finger removed 2° trauma

FH NC

ROS HEENT - neg except for PT
Thyroid - o
Cardio - neg - o

LENOX HILL HOSPITAL, NEW YORK

2
NUGENT CLEMENT
346902 911 M
3992 SP 53
BLOCK 3 23 68

HISTORY NUMBER

92

3-23-68

G-T-1129

G-U-

Skell -

Skell -

Px 140% P88 reg R 70 reg
M is a wound wound in NAD

Skell - nl finger

ENT -

Neck - 1st veins, trachea mid-line

Thyroid not palp; carotids 4-5 brt T +
Nodules none palp

Back -

Chest - lungs cl to A + P

- Heart RSR 5 (m) D 7 P 2

PMT 5th TCS @ MCL

Abd - Hard + soft to gd bl sds

L, S, K, not palp; no masses or areas
of tend

Genitals nl

Rectal wnl

Ext - no clubbing, cyanosis or edema

Perit - pulses good L distal digit of R 3rd
phal absent

Spel -

LENOX HILL HOSPITAL, NEW YORK

B

URGENT CLEMENT
24-902 911 M
5942 SP 53
BLOCK 3-23-68

HISTORY NUMBER

93

3-23-68

Neural

MS - nl

Cranial N III → XII grossly nl

II - PERLA 2 NL 2014'S

- Fundi - (C) papilledema

- bilateral A-V Knickung &

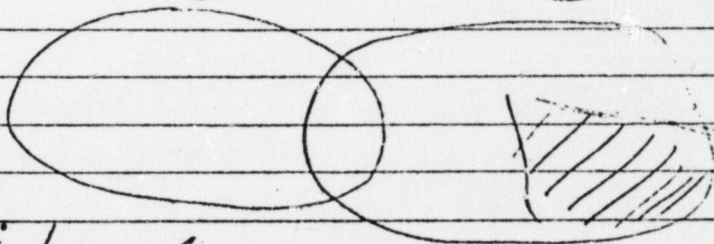
supra visual defect

- ↓ visual acuity on (C) - cannot
recognize a coin @ 2 feet

- visual fields - grossly

(R)

(L)



Motor - nl

Sens - nl

Reflexes - DTR'S WNL

Plantar

(R)

(L)

↓

±

Imp (C) Brain Tumor

(C) Hx T. B. in Past

James M. Ramsey

LENOX HILL HOSPITAL, NEW YORK

NUGENT CLEMENT
346902 911 M
3992 SP 53
BLOCK 3 23 48

DOCTORS NOTES

94

HISTORY No.

BEST COPY OBTAINABLE

DATES	EXAMINATIONS, REMARKS, DAILY NOTES, ETC.
4/3	After consultation with his chief consultant to agree to Rx of steroids + cover TB in LNH & stop. <i>[Signature]</i>
4/8	Fingers slightly improved. No change in vision on steroids. <i>[Signature]</i>
4/12	Discharge note Tuberculous involvement of fundus congested & hemorrhagic. Use of steroids established Rx to continue to steroids & LNH as per patient's. <i>[Signature]</i>

EXHIBIT

B77

LENOX HILL HOSPITAL, NEW YORK CITY

MEDICAL REPORT
(General)DATE OF THIS
REQUEST

9/10/68

Notice to Physician:

Please include sufficient details of history, physical and diagnostic findings, clinical course, therapy and response to enable a reviewing physician to make an independent determination as to the severity and duration of the impairment.

95

(1) IDENTIFYING INFORMATION (To be completed by Requesting Office)	PATIENT'S NAME Clemente Nugent	DATE OF BIRTH 10/18/14	SOCIAL SECURITY ACCOUNT NO. 081-18-0678
	WAGE EARNER'S NAME (If different from patient)	ADDRESS OF REQUESTING OFFICE 135 E. 22 St. Brooklyn N.Y. 11226	

I. HISTORY: (Give complaints, past and present, clinical course, including therapy and response.)

History of pulmonary tuberculosis dating back to Aug, 1948. He was confined at Sea View Hospital where initial pneumothorax was done on the left side. Subsequently a lesion appeared on the right. Anti-tubercular medication was given with good response. There has been several re-activations during the years but the condition was fairly well controlled.

EXHIBIT B18 (3 pgs)

The recent episode involving loss of vision does not relate to his pulmonary condition. However, the ophthalmologist feels that the best therapy is steroids. This medication

DATE OF INJURY OR FIRST SIGNS OF ILLNESS	DATE IMPAIRMENT PRE- VENTED WORK	DATE YOU FIRST EXAMINED PATIENT	FREQUENCY OF VISITS CASE NO. EXHIBIT TP (3 pgs)	DATE OF LAST EXAMINA- TION
---	-------------------------------------	------------------------------------	--	-------------------------------

II. PHYSICAL FINDINGS: Please show all pertinent findings (with dates).

HEIGHT

145

WEIGHT

5-10

96

is hazardous because of tuberculous re-activation potential. Accordingly, when this is administered anti-tuberculous therapy must be given.

Physical Exam...

Partial loss of vision of left eye. (Under care of ophthalmologist). There are no symptoms referable to the lung except for recent cold during the past week.

Heart sounds are of good quality, regular. No murmurs. Rate 78.

Lungs. Occasional fine sub-crepitant rales audible in the left lung.

Abdomen. No masses, no tender areas.

Extremities normal

III. LABORATORY AND SPECIAL STUDIES: Give results with dates. (Hemoglobin, Hematocrit, Sedimentation rate, Cerebrospinal fluid, Blood chemistry, Urinalysis, Sputa (smear, culture), Serology, X-rays, Electrocardiogram, Liver function, Bronchoscopy, Myelogram, Biopsy, Pulmonary function, Renal function, Psychometric, etc.)

Urine neg S + P. 1017 97

X-ray. Heart is of normal size and contours. The left diaphragm is flattened and the costo-phrenic sinus obscured by pleural thickening. The latter extends upward to occupy the entire apex. There is scattered infiltration through both lungs, fibrotic in character with no evidence of recent exudation. The left lung is moderately contracted.

IV. DIAGNOSES:

1. Thrombosis of central vein of right eye.?
2. Pulmonary Tuberculosis, bilateral.
3. Old Pneumothorax of left lung with considerable pleural thickening

EXHIBIT B-18

REPORTING PHYSICIAN'S NAME AND ADDRESS

Charles Schuman M.D.
40 Park Ave. N.Y.

SIGNATURE

Charles Schuman

TELEPHONE NUMBER

NY 5-0174

TITLE

DATE

Sept 28, 68

CHARLES SCHUMAN, M. D.
40 PARK AVENUE
NEW YORK, N. Y. 10016
MURRAY HILL 5-0174

Chini ho
081-17-0677

November 2, 1968

98

Clemente B. Nugent.
1606 Albany Avenue
Brooklyn, N. Y. 11210

This is to certify that Mr. Nugent has been under my professional care for many years as a case of pulmonary tuberculosis.

He has had a pneumothorax of the left lung with some spread into the right lung. Pneumothorax therapy was discontinued in 1953. Several reactivations have taken place in recent years, the last one in 1965.

He is now being treated for impairment of vision of the right eye. Cortisone is being given systemically. Because of the several reactivations in the past and the dangers of cortisone therapy in these cases, I have advised him to have complete rest during the period of therapy. The ophthalmologist can supply the information regarding the degree of vision loss in the right eye.

Any additional information you require from me will be furnished on request.



Charles Schuman, M. D.

CS/st

EXHIBIT B19

CASE NO. _____

EXHIBIT 19

CHARLES SCHUMAN, M. D.
40 PARK AVENUE
NEW YORK, N. Y. 10016
MURRAY HILL 5-0174

99

January 6, 1969

Clement B. Nugent, Age 54
1606 Albany Avenue
Brooklyn, N. Y.

Mr. Nugent has discussed the entire matter of his present health status with me.

He has developed progressive blindness in the left eye for which he was given substantial doses of steroids. According to his ophthalmologist, this was the only method of treatment that offered some hope of a cure. However, the response to the therapy has been very disappointing. He has now lost practically the entire vision of the left eye.

This man has had a long history of pulmonary tuberculosis with pneumothorax therapy. This therapy was discontinued in 1953. Since that time he has had several episodes of reactivation, the most recent one in 1965.

In view of this history of reactivation, I advised him to discontinue work. In the presence of continued steroid therapy, the hazard of reactivation is well established. Therefore, it seems apparent that every safeguard should be taken with this man to prevent reactivation.

EXHIBIT B20

Charles Schuman
Charles Schuman, M. D.

CASE NO. 20

CS/st

PROFESSIONAL QUALIFICATIONS

Physician's Name: Charles Schuman

100

Physician's Office Address: 40 Park Avenue, NYC

Source of Information: NYS Medical Directory

Pages: 282

Medical School and Year of Graduation: Long Island College Hospital 1927

Type of Medical Practice and/or Specialty: Internal Medicine, Tuberculosis and Lung diseases

Subspecialty:

Certification by American Boards in Medical Specialties and by National Board of Medical Examiners: Diplomate - Internal Medicine

Specialty Colleges: Fellow of American College of Chest Physicians

Hospital Affiliations: Associate Physician Beekman - Downtown Hospital;
Associate Physician Chest Diseases Polyclinic and Polyclinic OPD

Medical Societies: Academy of Medicine

Other Information:

RUDDOLPH GOLDBERG, M.D., F.A.C.S.
MARVIN S. SIEGEL, M.D.
3120 GLENWOOD ROAD
BROOKLYN 10, N. Y.
GEOKEY 4-6827-6784

November 7, 1968

To Whom It May Concern: .

Mr. Clement Nugent, of 1606 Albany Avenue, Brooklyn, has been under my care since 1946. During this period of time he developed Pulmonary Tuberculosis and was referred for treatment many years ago to Dr. Charles Schuman. More recently, since 1965, he has been treated on several occasions for acute Pneumonitis. Specifically, he had acute Pneumonitis in September 1965, March 1966, December 1966, and October 1967.

Respectfully submitted,

Marvin S. Siegel

Marvin S. Siegel, M. D.

EXHIBIT B22

CASE NO. _____

EXHIBIT 22

1. Physician's Name Siegel Marvin Samuel
(Last) (First) (Middle)

2. Address 3120 Glenwood Road, Brooklyn, New York 11210
102

3. AMA Membership: ☒ Yes ☐ No

4. Year of Birth (B): 1916

5. Medical Education (ME): State: New York

School: State University of New York Downstate Medical Center

Year of Degree: 1942

6. Year of License (L): 1942

7. National Board (NB): ☐ Yes ☐ No

Year: _____

8. American Specialty Boards (AB): _____

9. Medical Specialties: General Practice

10. Type of Practice (TOP): Full-Time

11. National Scientific Medical Societies: (SS) American Academy of General Practice

12. Professorial Appointments (PA): State: _____

School: _____

13. Other Information: _____

14. Sources of Information: 1967 American Directory Part III American Medical Directory
Edition: 24th Page: 2423

Other Sources: _____

Form HA-526 (11-67)

EXHIBIT B23

Q 23

REPORT OF CONTACT

(USE INK OR TYPEWRITER)

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

Clemente Nugent

REVIEWING OFFICE

TO: NY P SF KC CH BIR BDI DFC

103

PERSON(S) CONTACTED AND ADDRESS(ES):

☐ WE OR SE PERSON

☐ OTHER (Specify)

ACCOUNT NUMBER (and symbol)

081-18-0678

Dr. J.M. Block

New York, New York

CONTACT MADE:

☐ DO ☐ BO ☐ CS ☐ HOME ☒ PHONE:

☐ OTHER (Specify)

DATE OF CONTACT

10/1/63

SUBJECT:

PURPOSE: To find out what is the claimant's visual acuity in his right eye.

FACTS: The doctor's nurse informed me that the claimant's visual acuity in his right eye is 20/40 with best correction.

NEXT ACTION: Determination.

EXHIBIT B24

Mary Lou Purcell

SIGNATURE

DISTRICT OFFICE

CASE NO.

24

DATE OF REPORT

☐ CR ☐ FR ☐ SR ☐ CLAIMS CLERICAL

☐ OTHER (Specify)

PAGE 1 OF 1

DO NOT WRITE IN MARGIN

MEDICAL REPORT
(General)DATE OF THIS
REQUEST

9/10/68

104

Notice to Physician:

Please include sufficient details of history, physical and diagnostic findings, clinical course, therapy and response to enable a reviewing physician to make an independent determination as to the severity and duration of the impairment.

(1) IDENTIFYING INFORMATION (To be completed by Requesting Office)	PATIENT'S NAME Clemente Nugent	DATE OF BIRTH 10/18/14	SOCIAL SECURITY ACCOUNT NO. 081-18-0678
	WAGE EARNER'S NAME (If different from patient)	ADDRESS OF REQUESTING OFFICE 135 E. 22 St. Bklyn N.Y 11226	

I: HISTORY: (Give complaints, past and present, clinical course, including therapy and response.)

53 y.o. Longshoreman & history of pain & decreased vision in left eye since Feb 68

Full neurologic & ophthalmologic studies in office & Lenox Hill Hospital showed only severe optic neuritis on left with swelling of disc, hemorrhages & exudates which have since resolved.

Pt. is essentially blind in L. eye as result of this & despite Rx & cortisone.

Because of old T.B. he also took I.N.H. & streptomycin & the steroids

EXHIBIT B25 (2 pgs)

CASE NO. 25 (2 pgs)

DATE OF INJURY OR FIRST SIGNS OF ILLNESS Feb 68	DATE IMPAIRMENT PREVENTED WORK 7/31/68	DATE YOU FIRST EXAMINED PATIENT 3/24/68	FREQUENCY OF VISITS 182 wks	DATE OF LAST EXAMINATION Sept 11/68
--	---	--	--------------------------------	--

III. LABORATORY AND SPECIAL STUDIES: Give results with dates. (Hemoglobin, Hematocrit, Sedimentation rate, Cerebrospinal fluid, Blood chemistry, Urinalysis, Sputa (smear, culture), Serology, X-rays, Electrocardiogram, Liver function, Bronchoscopy, Myelogram, Biopsy, Pulmonary function, Renal function, Psychometric, etc.)

Normal skull & orbit xray

105

" ECG, hearted angiogram & spinal fluid

Chest xray shows old T.B.

IV. DIAGNOSES:

1. Optic neuritis O.S. & blindness O.S.
2. T.B., pulmonary, quiescent
- 3.

REPORTING PHYSICIAN'S NAME AND ADDRESS

SIGNATURE

J. H. BLOCK MD

TITLE

Attending

TELEPHONE NUMBER

1-872-2377

DATE

9/5/68

MEDICAL REPORT
(General)DATE OF THIS
REQUEST11/8/68
106

Notice to Physician:

Please include sufficient details of history, physical and diagnostic findings, clinical course, therapy and response to enable a reviewing physician to make an independent determination as to the severity and duration of the impairment.

(1) IDENTIFYING INFORMATION (To be completed by Requesting Office)	PATIENT'S NAME <i>Clement B. Bugent</i>	DATE OF BIRTH <i>10/18/14</i>	SOCIAL SECURITY ACCOUNT NO. <i>081-18-6678</i>
	WAGE EARNER'S NAME (If different from patient) _____	ADDRESS OF REQUESTING OFFICE <i>335 East 22nd St. (Between Flatbush & Bedford Aves.) Brooklyn 26, N. Y.</i>	
	NAME OF DOCTOR <i>Dr. Jerome Block, MD</i>		

I. HISTORY: (Give complaints, past and present, clinical course, including therapy and response.)

*Chronic and severe T.B.**Long term bilateral hearing loss.*

53 y.o. Longshoreman rendered legally blind in left eye since Feb. 68 because of acute optic neuritis which has developed a chorioretinitis in fundus. While the latter have subsided the vision has not returned despite the treatment with cortisone which of course conceals his pulmonary T.B. problem, requires inhalation therapy as well as complete rest to prevent exacerbation of the T.B.

EXHIBIT *B26 (2pgs)*

CASE NO.

081-18-6678 (30pgs)

DATE OF INJURY OR FIRST SIGNS OF ILLNESS <i>Feb 68</i>	DATE IMPAIRMENT PREVENTED WORK <i>3/1/68</i>	DATE YOU FIRST EXAMINED PATIENT <i>3/24</i>	FREQUENCY OF VISITS <i>1/2 w</i>	DATE OF LAST EXAMINATION <i>Oct 20</i>
---	---	--	-------------------------------------	---

II. PHYSICAL FINDINGS: Please show all pertinent findings (with dates).

HEIGHT

WEIGHT

107

Old pulmonary T.B
with fibrosis of lung

Optic atrophy, blindness
hemorrhage & exudates
in fundus of l. eye

III. LABORATORY AND SPECIAL STUDIES: Give results with dates. (Hemoglobin, Hematocrit, Sedimentation rate. Cerebrospinal fluid, Blood chemistry, Urinalysis, Sputa (smear, culture), Serology, X-rays, Electrocardiogram, Liver function, Bronchoscopy, Myelogram, Biopsy, Pulmonary function, Renal function, Psychometric, etc.)

108

Normal E.E.G., L.P. Carotid
arteriogram, skull X-ray

Chest X-ray + fr extensive
T.B. presumably inactive

IV. DIAGNOSES:

1. Subacute T.B.
2. Bilateral hearing loss
3. Blindness, O.S.

Pt can not resume work as longshoreman

EXHIBIT B-26

REPORTING PHYSICIAN'S NAME AND ADDRESS	SIGNATURE	TITLE
J. M. Block MD	<i>[Signature]</i>	MD
1087 20 W. 7. 1028	TELEPHONE NUMBER <i>673-5540</i>	DATE <i>11/1/58</i>

JEROME M. BLOCK, M. D.
1 EAST 87TH STREET
NEW YORK, N. Y. 10028
ATWATER 9-0540,

109

January 13, 1969

TO WHOM IT MAY CONCERN:

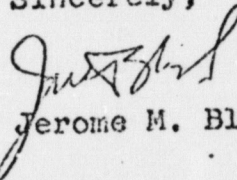
Re: Clement Nugent

This is to state that the abovenamed has been under treatment because of left optic papillitis and consequent blindness. Diagnosis was made after extensive testing at Lenox Hill Hospital. Treatment was instituted with Cortisone. Treatment was necessarily of short duration and incomplete because of his complicated history of severe pulmonary tuberculosis which limited the use of steroids despite covering doses of anti-tuberculous therapy.

I have been in communication with his chest specialist and we have given him intermittent doses of steroids for the optic papillitis on and off throughout the year, but there is no question that the complicating factor of pulmonary tuberculosis significantly limited the amount of treatment this gentleman could receive. He is legally blind in the left eye and severely disabled because of the combination of pulmonary disease and optic neuritis, the former limiting the treatment to the latter.

If I can be of further service, please let me know.

Sincerely,



Jerome M. Block, M.D.

JMB:pl

EXHIBIT B27

CASE NO.

22

PROFESSIONAL QUALIFICATIONS

Physician's Name: Jerome M. Block, M.D.

Year of Birth: 1930

110

Physician's Office Address: 1 East 87th St., New York, N.Y. 10028

Type of Medical Practice and/or Specialty: Neurology; Physical Medicine

Subspecialty:

Medical School and Year of Graduation: Harvard Medical School, Boston - 1954

License(s) (show year(s) and State(s), and/or year of certification by National Board of Medical Examiners): 1955

American Specialty Boards: American Board of Psychiatry and Neurology

National Scientific Medical Societies (indicate if Fellow):

American Medical Association
American Academy of Neurology

Hospital Affiliations (state nature of association, e.g., Chief of Service, Attending Staff, Consultant, etc.):

Professorial or Teaching Appointment(s): New York University School of Medicine, New York

Other Information:

Year of Certification by National Board of Medical Examiners - 1955

Source(s) of Information (self; title of directory and page number, etc.):

American Medical Directory, 24th Edition - 1967
pp. 2520, vii, xii, xiii, xv, xix

Anthony J. Barranco, M.D.

116 LINCOLN ROAD
BROOKLYN 25, NEW YORK

212 IN 2-1747

STATE OF NEW YORK
DEPARTMENT OF SOCIAL SERVICES
68 FEB 24 PM 2:37

BUREAU OF
DETERMINATIONS

February 21, 1969

Joseph J. Oliva M.D.
Bureau of Disability Determinations
110 William Street
New York, N.Y. 10038

Re: Clement B. Nugent
081-18-0678

111

Dear Dr. Oliva,

Mr. Nugent was examined by me on February 17, 1969.

History: Mr. Nugent stated that he first noticed blurring of the vision of the left eye early in January 1968. However he did not consult an ophthalmologist until March 21, 1968. At that time he was placed under the care of an ophthalmologist and a chest physician in view of a history of arrested tuberculosis for the past twenty years. He has remained under medical care constantly from March 1968 to the present. In spite of treatment there has not been any improvement in the vision of the left eye.

Examination: Pupils are equal and regular and react to light both directly and consensually. LA reflex present.

Vision.: Rt. eye 20/20 near + 2.00 add J 1
Lt. eye 3/400 uncorrectable or improvable with glasses.

Slit lamp: Bilateral gerontoxin. AC deep and clear. Lens clear.

Tension: Rt. 17.3 Lt. 17.3

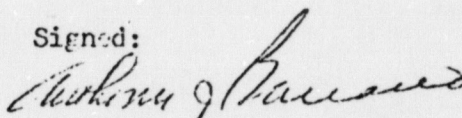
Fundi: Rt. unremarkable for age.

Lt. Media clear. Disc edges are blurred especially superiorly. Disc hyperemic and there is a corkscrew neovascularization. Adjacent to the disc there is a hyaline exudate. Veins are full and tortuous. The macular area shows atrophy with clumping of pigment and several small hemorrhages. Few discrete hemorrhages seen in the retina.

Impression: Papillitis left etiology unknown.

Prognosis: In view of the long duration of the condition and the marked macular changes it is doubtful if there will be any recovery of vision in the left eye.

Signed:



Anthony J. Barranco M.D.

EXHIBIT B29 (2pgs)

68 FEB 24 PM 2:37
29-62 (2pgs)

CF-383:1 (6/67) Eye

Claimant: Clement B. Nugent 112

To: Anthony J. Barranco M D

A/N: 081-18-0678

PLEASE ANSWER ALL ITEMS

60 FEB 24 PM 2:30

1. Date(s) of your examination FEBRUARY 17, 1969

	Right Eye	Left Eye
2. Diagnosis :	<u>NO DISEASE</u>	<u>OPAC. NEURITIS</u>

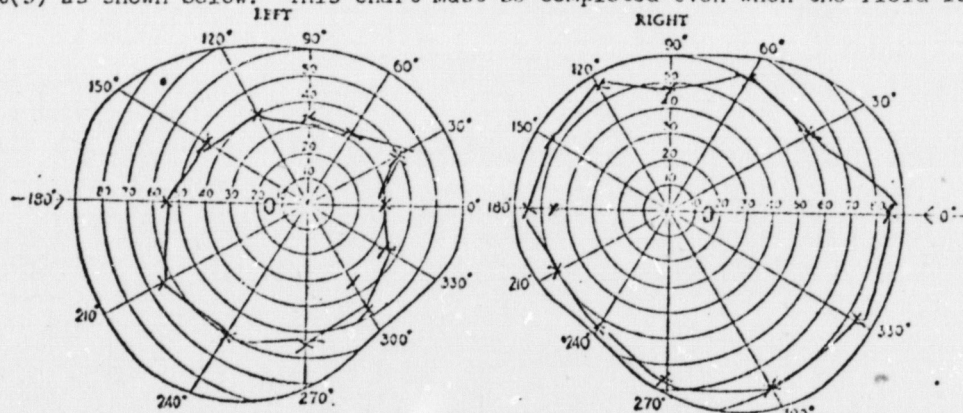
	Right Eye	Left Eye
3. Etiology	<u>—</u>	<u>NOT KNOWN</u>

4. Exact degree of central visual acuity:

a. Distant vision without correction	<u>20/20</u>	<u>3/400</u>
b. Distant vision with best correction	<u>20/20</u>	<u>3/400</u>
c. Distant vision with present prescription correction	<u>NO CORRECTION</u>	<u>NO CORRECTION</u>
d. Near vision correction using Jaeger notation	<u>J1</u>	<u>—</u>

5. Tension	<u>17.3</u>	<u>17.3</u>
----------------------	-------------	-------------

6. Complete the fields of vision chart which follows using the appropriate test object(s) as shown below. This chart must be completed even when the field is zero.



Please check the appropriate box(es) to show the test object(s) used:

- ☒ 3mm/330mm white; ☐ aphakia: 6mm/330mm white
☐ scotomata: 2mm/1000mm white, with corrective lenses

7. Include any other serious condition significant to recovery in your signed narrative which should accompany this form.

New York State Department of Social Services
 Bureau of Disability Determinations
 110 William Street, New York, N.Y. 10038

1. Physician's Name Barranco Anthony J.
(Last) (First) (Middle)

2. Address 116 Lincoln Road, Brooklyn, New York 11225 113

3. AMA Membership: ☒ Yes ☐ No

4. Year of Birth (B): 1905

5. Medical Education (ME): State: New York

School: State University of New York Downstate Medical Center

Year of Degree: 1928

6. Year of License (L): 1928

7. National Board (NB): ☐ Yes ☒ No

Year: _____

8. American Specialty Boards (AB): American Board of Ophthalmology

9. Medical Specialties: Ophthalmology

10. Type of Practice (TOP): Full-Time

11. National Scientific Medical Societies: (SS) American Academy of Ophthalmology and Otolaryngology

12. Professorial Appointments (PA): State: _____

School: _____

13. Other Information: _____

14. Sources of Information: American Medical Directory
1967 Medical Directory Part III Edition: 24th Page: 2392

Other Sources: _____

Form HA-526 (11-67)

EXHIBIT B30

2081-18-0678
B30

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Bureau of
Hearings and Appeals
Telephone: 264-3818

114
In replying, address:
Bureau of Hearings and Appeals
Social Security Administration
26 Federal Plaza
Federal Building, Room 3138
New York, New York 10007

April 18, 1969

Mr. Milton Feld
5410 Netherland Avenue
Bronx, New York

Dear Mr. Feld:

Clement J. Nugent, social security account number 081-18-0678, has filed a Request for Hearing on his disability claim. It is expected that the hearing will be held on May 12, 1969, at 9:30 AM, at 26 Federal Plaza, Federal Building, Room 3138, New York, New York. It is requested that you appear at the said time and place to present testimony as a vocational expert.

Transmitted herewith are copies of the documents tentatively selected for inclusion in the record of this case and a list of such documents for your ready reference. All of the facts currently available with respect to the claimant's age, education, vocational experience and impairments are reflected in these documents.

The Hearing Examiner would like to have you present throughout the hearing for the purpose of testifying as a vocational expert on the basis of the enclosed documents, as well as any additional documents and oral testimony that may be offered at the hearing. If you feel that further prehearing documentation would be necessary for the purpose of giving testimony as a vocational expert, please advise me immediately.

You probably will be the last witness to be heard. That is, your testimony will probably follow that of the claimant and any other witnesses who may be present. You may expect to be called upon to testify as to what jobs the claimant was qualified to perform by virtue of his education, past training, and experience; and the extent to which such jobs exist in the economy. While it is not your responsibility to determine what dysfunctions, if any, the claimant may have, you should be prepared to give vocational testimony, based on assumptions of fact covering the entire range of the evidence.

RHR-NY-13

EXHIBIT B31 (4 pgs)

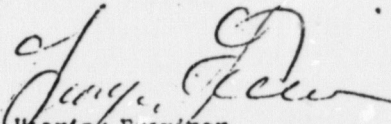
CASE NO.

B31 (4 pgs)

You will be requested to furnish the rationale and supporting reasons in detail for your opinions. Questions may be asked of you by the claimant (and/or his representative) as well as by the Hearing Examiner. You will not be expected to testify as to whether the claimant is or is not disabled since under pertinent provisions of the Social Security Act, and regulations promulgated thereunder, the Hearing Examiner has the responsibility for deciding this ultimate legal issue.

If for any reason you are unable to appear and testify at the time and place set forth above, or you are acquainted with the claimant, please notify the Hearing Examiner immediately.

Sincerely yours,


Hearing Examiner

Enclosures:
Documents
List

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS
744 Jackson Place
Washington 25, D.C.

116

RESUME OF EXPERIENCE AND BACKGROUND

Please print or type all entries. Attach extra sheets as needed. Submit in duplicate.

August 15, 1962

Date

1. NAME Feld Milton Date of Birth 8/29/16
Last First Middle

2. MAILING ADDRESS 765 Riverside Drive 5410 Netherland Ave.
New York 32, N.Y. Bronx 71, New York

3. PRESENT EMPLOYMENT

Present Employer The Jewish Guild for the Blind Date of First Employment 12/18/61
Institution or Firm Supervisor In This Position

Your Position or Title Vocational Rehab. Counselor & Assistant to the Director No. of Hours 35
Vocational Rehab. Dept. Worked Per Wk.

Description of Your Duties Ongoing vocational counseling services; supervision of placement counselor, vocational counselor and psychologist; liaison counselor between the Guild and the State rehabilitation

agencies in vocational matters; conducting seminars for the Vocational Rehab. Dept.; administrative duties in daily operation; program planning.

4. PREVIOUS EXPERIENCE--Begin with your earliest employment in psychological area and continue chronologically. Do not include minor positions. Use additional sheets if necessary.

Position or Title	Employed		Institution or Firm
	From	To	
(a) Ass't Administrator of Veterans Benefits	9/54	10/55	Brooklyn College
Duties	Counselled student veterans on college programs and benefits under the G.I. Bill		
(b) Vocat. Rehab Counselor	10/55	9/59	NYC Depts. of Health & Hospitals
Duties	Vocational Counseling; Research programs, Psychological testing; OVR demonstration program coordinator; Liaison to outside agencies		
(c) Coordinator & Pre-Voc Supervisor	9/59	12/61	Hosp. Center at Orange, N.J.
Duties	Coordinated activities in a comprehensive rehabilitation center organized and put into operation a pre-vocational unit; drew up protocols for an OVR sponsored demonstration & research study		

(a) Undergraduate

Columbia University
Institution

B. S.
Degree

1952
Date of
Degree

Psychology
Major Subject

117

(b) Graduate

Institution	Dates of Attendance	Degree	Major Field	Graduated	
				Yes	No
New York University	1952-1953	M.A.	Vocational Rehabilit.	X	
"	1954 -	Ph.D.	"		X

6. PUBLICATIONS

List publications with journal references.

Procedural Guide to Rehabilitation Agencies: Bureau of Tuberculosis,
New York City Dept. of Health. 1957

Spanish Manual for TB Out-patient Interviewing by P.H. Nurses:
Bureau of Tuberculosis, N.Y. Dept. of Health. 1957

7. PROFESSIONAL RECOGNITION

Professional and honorary organizations, awards, special honors,
State license or certificate, etc.

American Personnel & Guidance Association

National Vocational Guidance Association, (Professional)

Division of Rehabilitation Counseling, APGA

National Rehabilitation Association

New York Vocational Guidance Association

EXHIBIT

B-31

8. CONSULTATIVE ACTIVITIES (PAST OR PRESENT)

Consultant for N.Y. City Dept of Health, Bureau of TB, in problems
and teaching programs where vocational rehabilitation was involved.

Milton Feld
Signature

CHARLES SCHUMAN, M. D.
40 PARK AVENUE
NEW YORK, N. Y. 10016
MURRAY HILL 5-0174

Department of Health, Education & Welfare
Bureau of Hearings and Appeals 113

APR 23 1969

26 Federal Plaza, Rm. 3138
New York, New York 10007

April 21, 1969

Mr. George G. Allen, Hearing Examiner
General Services Administration
United States Government
26 Federal Plaza, Room 3138
New York, N. Y. 10007

RE: Clement B. Nugent
Clt. A W/E
A/W 081-18-0678

Dear Mr. Allen:

I wish to clarify some of the statements covered in your letter of March 11, 1969, a copy of which was received by me on April 18th.

The eye condition of Mr. Nugent was treated by an ophthalmologist who, I understand, had submitted several reports to the Department of Health, Education and Welfare. The particular steroid therapy and dose have been prescribed by him. I do know that he has advised Mr. Nugent to have repeat courses of therapy, despite the fact that the results were disappointing. Mr. Nugent informed me that his ophthalmologist feels that his only hope of improving his vision of the left eye is by steroid therapy.

I have treated Mr. Nugent for pulmonary tuberculosis since 1944. Pneumothorax treatment was discontinued in 1953. Since then he has had several reactivations. The basic treatment for these has been streptomycin. Over the period of several years he has developed a loss of hearing, probably resulting from the streptomycin.

With the administration of steroids by his ophthalmologist I feel that some precautions must be taken to control possible reactivations. Accordingly, I advised antituberculous therapy and rest during the course of the steroid therapy. As is known, steroid therapy is notorious for possible reactivation of arrested tuberculosis.

Very truly yours,

Charles Schuman

Charles Schuman, M. D.

CS/st

EXHIBIT B32

EXHIBIT NO. 32

March 22, 1968

Marvin Siegel, M. D.
3120 Glenwood Road
Brooklyn, New York

Re: Clement Nugent

Dear Dr. Siegel:

Mr. Nugent was in to see me today because of cloudy vision in the left eye of a month's duration.

The left eye now can only count fingers at close range whereas in January of 1965 he saw 20/20. There is a papilledema of the left disk with scattered small hemorrhages. Increased intracranial pressure is a possibility and a neurological survey is in order. Optic neuritis must also be ruled out and for this reason he should have a medical check with particular reference to foci of infection.

Thanking you and with best regards, I am

Sincerely,

James A. Inciardi, M. D.

JAI/sc

(BEST TYPED COPY OF FOLLOWING PAGE FOR LEGIBILITY)

MEMORANDUM FROM-

JAMES A. INCARDI, M.D., F.A.C.S.

141 MIDWOOD STREET

PHILADELPHIA, P. A. 19106

TELEPHONE 2-1400

March 22, 1963

Marvin Siegel, M. D.
5120 Glenwood Road
Brooklyn, New York

Re: Clinical Report

Dear Dr. Siegel:

Mr. Flament was in to see me today because of cloudy vision in the left eye of a month's duration.

The left eye now has only faint fibers of vision. When I visited in January of 1963 there was a small hemorrhage of the left disk with swollen optic nerve head. There is a possibility of increased intracranial pressure is a possibility and a neurologic survey is in order. To the best of my knowledge the patient should have a physical check with particular reference to foci of infection.

Thinking you and with best regards, I am

Sincerely,

James A. Incardi

James A. Incardi, M. D.

JAI/cc

64-3755

EXHIBIT NO. 33

JEROME M. BLOCK, M. D.
1 EAST 87TH STREET
NEW YORK, N. Y. 10028
ATWATER 9-0540

121

February 25, 1969

TO WHOM IT MAY CONCERN:

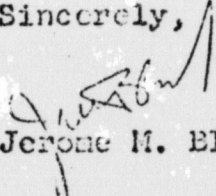
Re: Clement Nugent

I have outlined in previous letters that Mr. Nugent has had severe pulmonary tuberculosis. He also has a severe optic neuritis which has caused blindness in the left eye. The treatment for optic neuritis, as best as we know at the present time, is a prolonged course of Cortisone. Because of the presence of pulmonary tuberculosis, the treatment for Mr. Nugent had to be curtailed. He was treated with smaller doses than usual over short periods of time, never exceeding two weeks with intervals of two weeks free of Cortisone medication. This was done so that his pulmonary tuberculosis would not be reactivated.

There is no question in my mind that, because of the pulmonary tuberculosis, the treatment for his optic neuritis had to be restricted. Consequently, because of this restriction in treatment, although the treatment is non-specific, the patient failed to make recovery in his vision. I don't think I can be any clearer in the statements which have been made before.

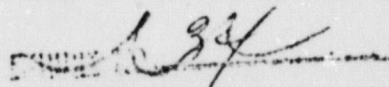
If there are any further questions on your part, I wish that you would contact me directly. If there is anything I can do to be of service, please let me know.

Sincerely,


Jerome M. Block, M.D.

JMB:pl

EXHIBIT B34



CHARLES SCHUMAN, M. D.
40 PARK AVENUE
NEW YORK, N. Y. 10016
MURRAY HILL 5-0174

122

February 28, 1969

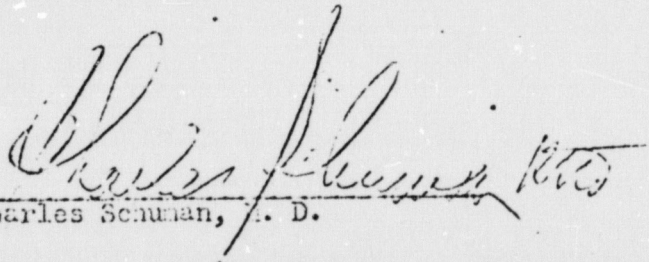
Clement B. Nugent
1336 Albany Avenue
Brooklyn, N. Y.

Mr. Nugent has been a case of pulmonary tuberculosis since 1948. Pneumothorax was induced and continued until 1954. Several reactivations have occurred since the active therapy was discontinued. The most recent reactivation occurred in 1965. It was characterized by fever, night sweats, fatigue, loss of appetite and loss of weight. Good response was obtained by short term anti-tuberculous therapy.

In early 1968 Mr. Nugent consulted an ophthalmologist because of impairment of vision of the left eye. Steroid therapy was recommended orally. In view of the previous history of tuberculosis, antibiotic therapy was started by me on April 18, 1968. He was given INH 100 mgs three times daily and 1 gm of dihydrostreptomycin weekly. Therapy was continued until December 19, 1968. Limited activity was advised.

Steroid therapy was resumed on February 20, 1969. Accordingly, anti-tuberculous therapy was given. The course will run concomitantly with the administration of steroids.

To date there is no indication of reactivation in the lung.


Charles Schuman, M. D.

CS/st

EXHIBIT B35

123



THE CITY OF NEW YORK
DEPARTMENT OF HOSPITALS

SEA VIEW HOSPITAL
460 BRIELLE AVENUE
STATEN ISLAND 14, N. Y.

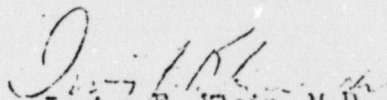
June 11, 1962

International Longshoremen's Association Ind.
Local 791

Dear Sirs:

This is to certify that Mr. Clement B. Hugent
was hospitalized at Sea View Hospital from
August 2, 1948 to April 1, 1949.

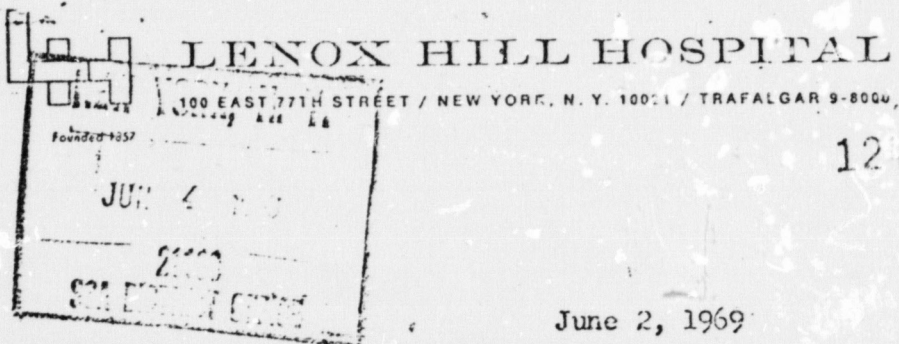
Very truly yours,


Irving F. Klein, M.D.
Sr. Medical Sup't.

IFK/js

EXHIBIT B36

36



June 2, 1969

Social Security Administration
1657 Broadway
New York 19, New York

Re: 081-18-0678
Clement Nugent

Gentlemen:

The above patient's wife phoned us today stating that your office had not received any hospital report on this patient.

According to our files, we mailed you five pages of photostats including the top sheet, history and physical, and final note. However, since that may not have been sufficient for your requirements, I am sending you additional photostats at this time which may be of assistance to you and the patient.

We trust this information is satisfactory and will aid in settling this case.

Sincerely yours,

Marie Parsons

Marie Parsons
Record Librarian

Department of Health, Education and Welfare
Bureau of Population and Statistics

JUN 10 1969

EXHIBIT B37 (1260)

20 Federal Avenue
New York, New York 10007

(Handwritten signature/initials)

LENOX HILL HOSPITAL
SPEECH AND HEARING CENTER
HEARING EXAMINATION

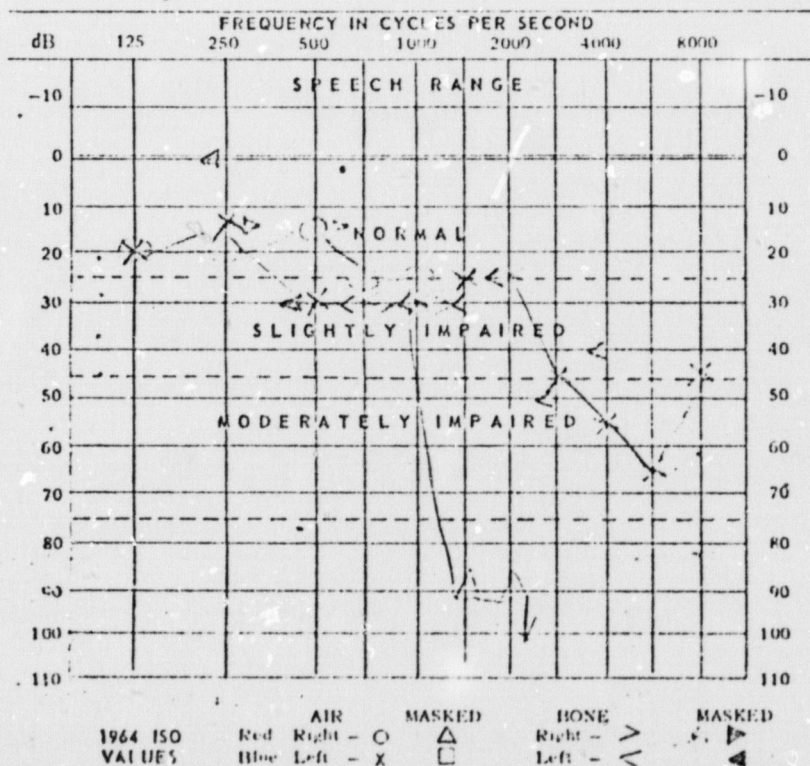
100 EAST 77th STREET
NEW YORK, N. Y. 10021
TR 9-8000, Ex. 446, 516

NAME NUGENT, Clement
ADDRESS 1666 ARBANY AVE.
PHONE GC 4-8755 PARENT WILLIAM NY 11210
DISP. NO. _____ JOURNAL NO. 3992

DATE 4/1/68 125
BIRTH _____ AGE 53 SEX M
REF. DR. BLACK
EXAM. BY R. Oliver AUD. B. SCX

AIR CONDUCTION					BONE CONDUCTION				
FREQ.	RIGHT	MASK LEVEL	LEFT	MASK LEVEL	FORE HEAD	RIGHT	MASK LEVEL	LEFT	MASK LEVEL
125	20		20						
250	20		15		0	75*	50	0*	50
500	15		30		15	15		30*	60
750	25		30		30	30		30	
1000	25		30		30	30		30	
1500	55 NR 85		25		30	NR*	65	30	
2000	60 NR 85		25		25	NR*	65	25	
3000	95 NR 90		45		50	NR*	80	50	
4000	100 NR 85		55		40	NR*	65	40	
6000	105 NR 80		65						
8000	NR 110		45						

SPEECH AUDIOMETRY		RIGHT	LEFT
AVERAGE AC			28
SRT		30	25
MASK LEVEL			
DISCRIM 1		44%	91%
MASK LEVEL			
LIST / SL		15/40	25/40
DISCRIM 2			
MASK LEVEL			
LIST / SL			



AUDIOMETRIC WEBER					
250	500	1000	2000	3000	4000
R	R	L	L	L	L

SISI (IN $\frac{g}{\%}$)						
FREQ.	250	500	1000	2000	3000	4000
RIGHT						
LEFT						

TONE DECAY TEST (IN SECONDS)							
EAR	FREQ.	SENSATION LEVEL					
		5	10	15	20	25	30

R - Right Ear
L - Left Ear
M - Midline
NR - No Response
* - Masking Used
DNT - Did Not Test

LENOX HILL HOSPITAL
SPEECH AND HEARING CENTER
HEARING EXAMINATION

100 EAST 77th STREET
NEW YORK, N. Y. 10021
TR 9-8000, Ex. 446, 516

NAME NUGENT, CLEMENT
ADDRESS 1606 ALBANY AVE.
PHONE EC-4-8755 PARENT _____
DISP. NO. _____ JOURNAL NO. 3992

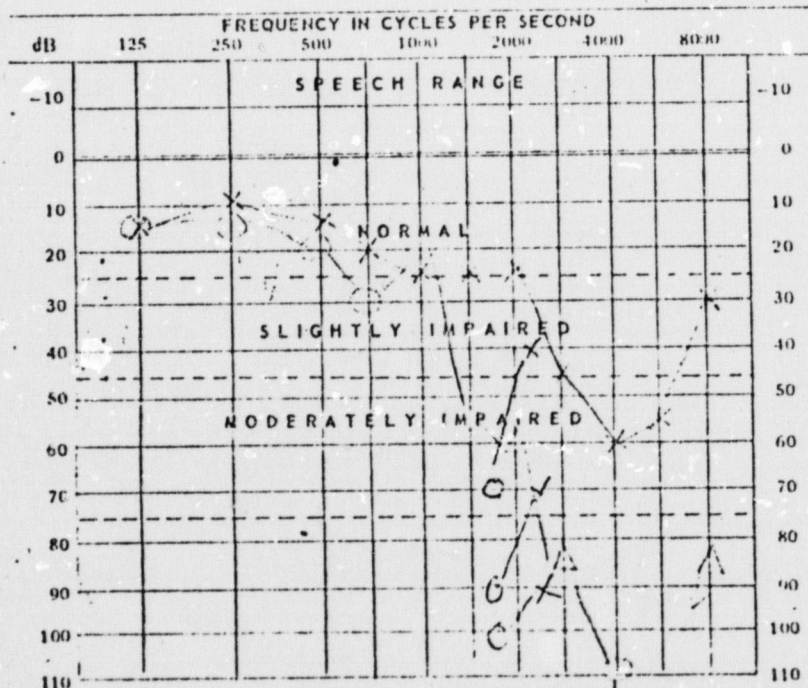
DATE 4/3/68 126
BIRTH _____ AGE 53 SEX M
REF. DR. ROSE
EXAM. BY FREDERICK MAINTAUD, PH.D.

AIR CONDUCTION				BONE CONDUCTION			
FREQ.	RIGHT	MASK LEVEL	LEFT	FORE HEAD	RIGHT	MASK LEVEL	LEFT
125	15		15				
250	15		15				
500	20		15				
750	20		20				
1000	20		25				
1500	55		25				
2000	65/60	55	25				
3000	85	60	45				
4000	110/110	55	60				
6000	110/110	55	55				
8000	85	60	30				

SPEECH AUDIOMETRY

	RIGHT	LEFT
AVERAGE AC		
SRT		
MASK LEVEL		
DISCRIM 1		
MASK LEVEL		
LIST / SL		
DISCRIM 2		
MASK LEVEL		
LIST / SL		

See REVERSE SIDE



1964 ISO VALUES

AIR Red Right - O Blue Left - X

MASKED Right - Δ Left - □

BONE Right - > Left - <

MASKED Right - • Left - ◐

AUDIOMETRIC WEBER

250	500	1000	2000	3000	4000
R	R	L	L	L	L

SISI (IN %)

FREQ.	250	500	1000	2000	3000	4000
RIGHT				100		
LEFT						

TONE DECAY TEST (IN SECONDS)

EAR	FREQ.	SENSATION LEVEL					
		5	10	15	20	25	30
R	3K	3	9	12	15		
L	2K	12	20	25	30		
L	1K	12	40				

R - Right Ear
L - Left Ear
M - Midline

NR - No Response
• - Masking Used
DNT - Did Not Test

NOGENT
CLEMENT

CONSULTATION REQUEST AND REPORT

REQUESTED OF

3/5/68 DATE

BY

127

Op. 2/2/68 DIVISION
REASON FOR CONS.

Neurology DIVISION

PROVIS. DIAGNOSIS

CHECK ONE

SIGNATURE

☒ ROUTINE

☐ EMERGENCY

M.D.

OPINION OF CONSULTANT

DATE 3/25/68.

Sensation of "pressure" behind o.s. for 1 1/2 months -
no pain. During same time has reduction of vision of left
eye but not right.

Wearing reading glasses 3 yrs. On 3/22/68 saw
his oculist who referred pt to his own L.M.D. who referred
pt to Dr. Block.

No head injuries.

Extracranial muscle motility: normal.

Reflex reaction to direct and consensual light stimuli:
normal.

Salivary Apparatus: normal.

Intraocular pressure & lights: normal.

Media: clear.

Right eye: fundus - optic disc suggestive of glaucoma,
no hemorrhages, veins full.

Left eye: papilledema, full veins, punctate hemorrhages
around disc and in macular area.
disc

M.D.

SIGNATURE

Pupils not visualized. When possible it may be helpful to have retinal photographs and to be able to examine when pupils may be dilated.

John Snow

AUGUST CLERENT
 346902 911 H
 3992 SP 52
 BLOCK 3 23 44

DOCTORS NOTES

129

HISTORY No.

DATES	EXAMINATIONS, REMARKS, DAILY NOTES, ETC.
3-28-68	<p>Pl scheduled for left Carotid Artery</p> <p>on 3-29-68 7 AM</p> <p style="text-align: center;">Sch</p>
3-29-68	<p>Left Carotid Arteriogram performed by percutaneous puncture of left Common Carotid following use of Seldinger technique. Previous surgical neck dissection of Carotid Artery its roots and with Great Veins. There is some distortion of jugular Veins during but no evidence of mass lesion or occlusive vascular disease. Left Carotid Artery in good condition.</p> <p style="text-align: center;">Sch</p>
3/29	<p>Pt doing well to date. Studies all negative. Can't be given steroids because of G.I.T.</p>
3/31	<p>ENT</p> <p>Patient is 53yo Longshoreman in LHH for ? optic neuritis. Has 1-2 mo. of pressure sleep. L eye 2 years recent blurred vision. Reports some hearing loss for a few years L > R. 3 pairs. Orange tumor on the right of nose. No trauma family hearing.</p>

LENOX HILL HOSPITAL, NEW YORK CITY

HUGENT CLEMENT
346902 911 H
3992 SP 57

DOCTORS NOTES

HISTORY No. 130

DATES	EXAMINATIONS, REMARKS, DAILY NOTES, ETC.
	loss on part infection.
	Had TB 1940s & running 12 yrs ago. Had then a PAS streptococci x 1 mo & Cortisone
	No Cx smears ordered trouble but group placed PT central & frontal areas
	Px - Both ears appear red & gross enlargement now - buckled septum & res. p. p. mouth - no larynx - buckled rotation. Both cords more nick - no
	Px & Px not digested except for 27. atrophy from STM Will check EKG diagram. Singer, name ordered gks. Will follow. <i>Frank</i> <i>Im for</i>

LENOX HILL HOSPITAL, NEW YORK CITY

MUGENT CLEMENT
34-902 911 H
3992 SP 53
BLOCK 2 22 49

DOCTORS NOTES

HISTORY No 131

DATES	EXAMINATIONS, REMARKS, DAILY NOTES, ETC.
4-2-68	No pain in or behind left eye. Vision unchanged. There seems to be left pericardial scarring. Pericardial fluid pericardial fluid. Lungs 47R. Pleural fluid. Lungs 47R. Pleural fluid. Lungs 47R.
4/3	Despite fact that it thought his hearing was worse in the left ear it is far worse in the right ear sharp drop off after 1000 cps. to no response for higher frequencies. There is mild sensorineural loss A.S. greater in upper freq. Will do further testing of hearing to determine if lesion & will also do caloric
4/3	Optic foramen on xray Intersphenoid section is well towards right but no other xray abnormalities are seen in this sinus Ice Caloric RT L. .2 cc appropriate 2° appropriate 2° npt npt. 3 degrees 3 degrees → normal labyrinthine function

LENOX HILL HOSPITAL, NEW YORK CITY

URGENT

URGENT CLINICAL
STATEMENT
3000 CP

CONSULTATION REQUEST AND REPORT
132

REQUESTED OF _____ DATE _____ BY _____

DIVISION _____ DIVISION _____

REASON FOR CONS. _____

PROVIS. DIAGNOSIS _____

CHECK ONE _____ SIGNATURE _____

☐ ROUTINE ☐ EMERGENCY

OPINION OF CONSULTANT _____ DATE 4/9/81 M.D.

Examination of pressure still present behind left eye. Has not noticed any visual changes.

Examination of fundus: normal.

Pupillary reaction normal, same as right eye.

Pupillary reaction to light stimuli: normal.

Examination of optic nerves: normal.

Examination of fundus: normal.

Media clear.

Right eye (fundus) no evidence of glaucoma, no hemorrhages, no exudates, no discoloration of iris, some peripheral vascularization and plaques hemorrhages.

Believe the fundus picture is less important but not striking.

J. D. [Signature] M.D.
SIGNATURE

NAME NUGENT, Clement

Hist. #

133

Date 3-25-68

Disp. #

Cooperation

good

Operator

Changin

Visual Acuity

R

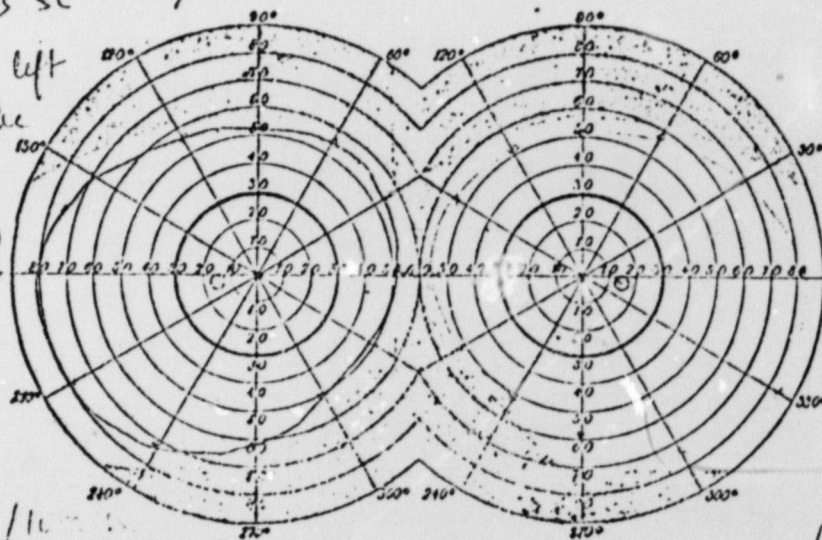
L

Peripheral Fields

VA OD 50 = 20/25⁻¹
OS 50 = 20/400⁺¹

The vision in the left
eye could not be
assessed by
refraction.

(LT)



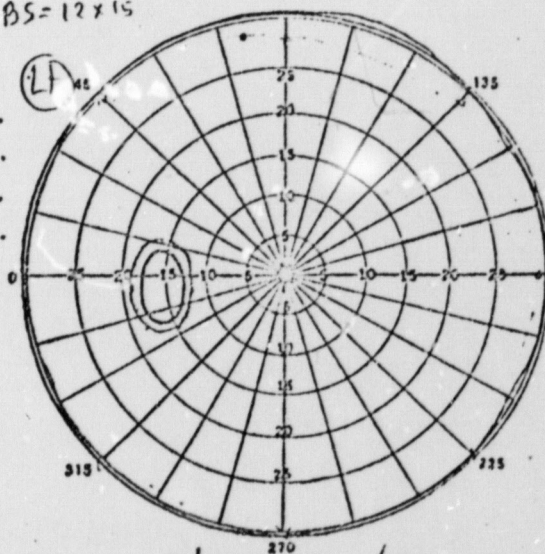
Test object

2/11

Central Fields

BS = 12 x 15

(LT)



Test object

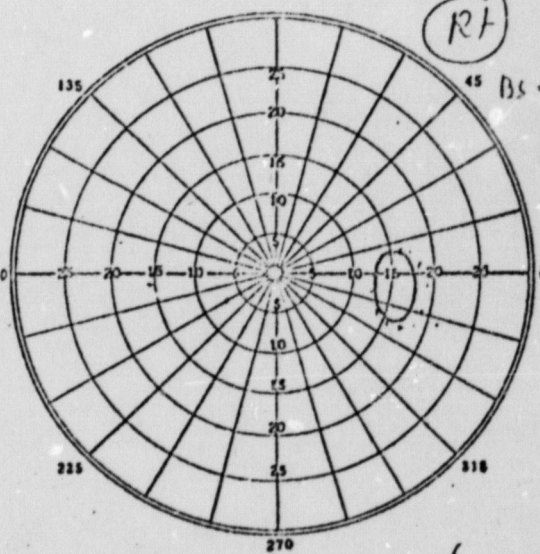
3/1000 W

and 9/1000 W

Test object

2/11 W

(RT)



Test object

3/1000 W

9 west

134

LENOX HILL HOSPITAL, NEW YORK
DEPT. OF ELECTROENCEPHALOGRAPHY
REPORT

History No. 346702

E. E. G. No. 14502

Name NUGENT, CLEMENT

Age 53

Room

or

Ward 911

Time AM

Date 3/25

1968

Object Papilledema

Medication Chloral Hydrate HS

Pre-Op

Post-Op

Gen. Cond. ment. emot. state
coma, aphasia, etc.

Cooperative

Fundamental Frequencies:

15-25, 10-11, per second.

Amplitudes:

3-50 mvs.

Effect of Hyperventilation:

Hyperventilation failed to alter the pattern of activity.

Gayl Schuman

Impression: Throughout the tracing there is a fairly well sustained alpha rhythm of moderate voltage which is essentially symmetrical from the two hemispheres. There is a considerable amount of low voltage sharp activity at 15-25 per second over both hemispheres. There is no evidence of a focal lesion and no activity diagnostic of epilepsy.

The EEG is of relatively low voltage but is within normal limits.

(F.A. Egle H.D.)

DEPARTMENT OF RADIOLOGY
LENOX HILL HOSPITAL
NEW YORK CITY

PATIENT NUGENT, Clement

X-RAY # 57213

DATE 4-1-68

DOCTOR J. Block

LOCATION 911

HISTORY # 346902

135

ORBITS AND SINUSES

4-1-68

Examination of the orbits and sinuses in multiple projections demonstrates the presence of almost total opacification of the right maxillary sinus. The remainder of the sinuses are well developed and well aerated. The orbits are intact and both optic foramina are well visualized and normal in appearance.

FAP:mn

Fred P. Zalkin, M.D.

SINUSES 3-28-68

Examination of the paranasal sinuses shows a considerable amount of mucous membrane thickening along the walls of the maxillary antrum on the right side. There is some relative haziness in the frontal cells on the right side due to mucous membrane thickening. No definite air-fluid levels are seen. The left maxillary, the ethmoids, the sphenoids and the left frontal cells are clear. The sella turcica is normal in size and shape.

FMP:cc

Frank M. Purnell, M.D.

DEPARTMENT OF RADIOLOGY
LENOX HILL HOSPITAL
NEW YORK CITY

PATIENT NUGENT, CLEMENT

X-RAY # 57213

DATE 3/25/68

DOCTOR JEROME BLOCK

LOCATION 911

HISTORY # 346902

SKULL - 3/25/68 Examination of the skull, shows that the bones of the vault are of average thickness. The petrous ridges and orbits are intact. The sella turcica is normal in size and configuration. The pineal is calcified and appears to lie in the midline. The right maxillary sinus is completely dense, due to considerable thickened mucous membrane. The right frontal and ethmoids also show moderate mucous membrane changes.

CHEST - 3/25/68 Examination of the chest, shows that the volume of the left lung is considerably less than that on the right. There is considerable pleural thickening in the upper portion of the left chest. Fibrotic changes are noted, but there is no recent parenchymal infiltration or pleural fluid. The left lung is hyperaerated, but otherwise appears clear. The heart and aorta are normal in appearance. There are no bony abnormalities.

ABDOMEN - 3/25/68 Examination of the abdomen shows no calcified biliary or urinary calculi, liver enlargement or renal pathology.

EEB:hd

Earl E. Brant, M.D.

LENOX HILL HOSPITAL

136

DEPARTMENT OF RADIOLOGY LENOX HILL HOSPITAL NEW YORK CITY

PATIENT NUGENT, Clement

X-RAY # 57213

DATE 3-29-68

DOCTOR K. Paley

LOCATION 911

HISTORY #

LEFT CAROTID ARTERIOGRAM

3-29-68

A left carotid arteriogram was done with good visualization of the cervical and intracranial portions of the internal carotid artery. The internal carotid is normal throughout its course. The intracranial branches are normal in appearance. The anterior cerebral and middle cerebral arteries are well visualized and normal. There is no evidence of vascular shift, stain or abnormal vascularity. Circulation time is normal and both superficial and deep cerebral veins are well visualized and normal in appearance.

FAP:mn

Fred T-33alk-mj

EXHIBIT B-37

CHARLES SCHUMAN, M. D.
40 PARK AVENUE
NEW YORK, N. Y. 10016
—
MURRAY HILL 5-0174

137

CLEMENT B. NUGENT
1606 Albany Avenue
Brooklyn, New York

RECORD OF TREATMENTS

LEFT PNEUMOTHORAX REFILLS CONTINUED

1953

<u>Date</u>	<u>Treatment</u>	<u>Cost</u>
January 1	Dihydrostreptomycin (Because of acute lesion on right and positive sputum)	\$ 5.00
2	" "	5.00
3	" "	5.00
4	" "	5.00
5	" "	5.00
6	" "	5.00
7	" "	5.00
8	Dihydrostreptomycin and PMX	15.00
9	Dihydrostreptomycin	5.00
10	"	5.00
11	"	5.00
12	"	5.00
17	Pneumothorax	10.00
28	"	10.00
February 9	"	10.00
23	"	10.00
March 9	Pneumothorax and X-ray of Lungs	20.00
23	Pneumothorax	10.00
April 11	"	10.00
26	"	10.00
May 11	"	10.00
29	"	10.00
June 15	"	10.00
28	"	10.00

EXHIBIT B38 (4P) 1/14

CHARLES SCHUMAN, M. D.
40 PARK AVENUE
NEW YORK, N. Y. 10016
MURRAY HILL 5-0174

138

<u>Date</u>	<u>Treatment</u>	<u>Cost</u>
July 13	Pneumothorax	\$10.00
29,	"	10.00
August 14	"	10.00
September 1	"	10.00
16	"	10.00
October 8	"	10.00
November 9	"	10.00
December 8	"	10.00

1954

January 16	Pneumothorax	10.00
February 13	"	10.00
March 13	"	10.00
May 1	Examination	10.00
July 2	Examination and X-ray	15.00
September 3	Examination	10.00

1955

February 12	Examination and X-ray	15.00
August 8	Examination	10.00

1956

August 20	Examination and X-ray	15.00
-----------	-----------------------	-------

1957

October 16	Examination and X-ray	15.00
------------	-----------------------	-------

1958

February 27	Examination and X-ray	15.00
-------------	-----------------------	-------

1002
(291)

CHARLES SCHUMAN, M. D.
40 PARK AVENUE
NEW YORK, N. Y. 10016
MURRAY HILL 5-0174

139

<u>Date</u>	<u>Treatment</u>	<u>Cost</u>
<u>1960</u>		
June 20,	Examination and X-ray	\$15.00
<u>1961</u>		
September 11	X-ray and Terramycin Cough and persistent fever (Reactivation)	
<u>1962</u>		
June 9	Terramycin Cold, cough, chills and fever. Bronchopneumonic spread at left base (Reactivation).	10.00
<u>1965</u>		
September 27	Examination Cold and fever for past several weeks (Reactivation)	10.00
<u>1967</u>		
January 30	Examination and X-ray Streptomycin, Terramycin	15.00
<u>1968</u>		
April 18	Dihydrostreptomycin	5.00
25	"	5.00
May 2	"	5.00
9	"	5.00
23	"	5.00
June 13	"	5.00
20	"	5.00
27	"	5.00
July 3	"	5.00
11	"	5.00
18	"	5.00
25	"	5.00

10.2
(3.74)

CHARLES SCHUMAN, M. D.
40 PARK AVENUE
NEW YORK, N. Y. 10016
MURRAY HILL 5-0174

140

<u>Cost</u>		<u>Treatment</u>	<u>Cost</u>
August	8	Dihydrostreptomycin	\$ 5.00
	15	"	5.00
	22	"	5.00
September	5	"	5.00
	12	"	5.00
	19	"	5.00
December	19	Examination	10.00
		<u>1969</u>	
January	2	Examination and X-ray	15.00

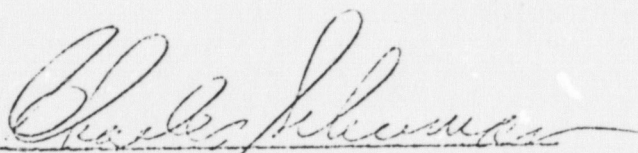

CHARLES SCHUMAN, M. D.

EXHIBIT B-38

CS/st
July 8, 1969

*Sworn to before me this 11th day
of July, 1969*

Arnold H. Chernoff

ARNOLD H. CHERNOFF
NOTARY PUBLIC, State of New York
No. 60-5680255
Qualified in Westchester County
Commission Expires March 20, 1970

Exhibit A-2
(471)

ROGER MILES ROSE, M. D.
127 E. 61ST ST.
NEW YORK, N. Y. 10021
TEMPLETON 8-B758

Sept 9, 1969

TO WHOM IT MAY CONCERN:

A FULL BATTERY OF HEARING TESTS DONE AT THE
LENOX HILL HOSPITAL IN 1968 REVEAL THAT MR NUGENT
HAS NO USEFUL HEARING ON THE RIGHT SIDE.. HE
HAS A MARKED LOSS FOR LOUDNESS AND A SEVERE
IMPAIRMENT OF DISCRIMINATION.

THE LEFT EAR IS MODERATELY IMPAIRED FOR
LOUDNESS; DISCRIMINATION IS GOOD.

Amend

EXHIBIT B39

EXHIBIT AC-3

MEDICAL REPORT
(General)DATE OF THIS
REQUEST

Notice to Physician:

Please include sufficient details of history, physical and diagnostic findings, clinical course, therapy and response to enable a reviewing physician to make an independent determination as to the severity and duration of the impairment.

142

(1) IDENTIFYING INFORMATION (To be completed by Requesting Office)	PATIENT'S NAME <i>Clemente B Nugent</i>	DATE OF BIRTH <i>10/18/44</i>	SOCIAL SECURITY ACCOUNT NO. <i>081-18-0678</i>
	WAGE EARNER'S NAME (If different from patient)	ADDRESS OF REQUESTING OFFICE <i>135 E 22 St Brooklyn 12 N</i>	
	NAME OF DOCTOR <i>Dr Black</i>		

I. HISTORY: (Give complaints, past and present, clinical course, including therapy and response.)

Hx of severe pulmonary T.B.

1 1/2 yrs ago went blind in left eye
due to optic neuritis. despite prolonged
& continued treatment with prednisone
& coverage & anti-tuberculous medication.

June 12, 1965 began to pain in l hip &
by mid July had rash of Herpes Zoster
Condition complicated by intractable
pain in l thigh, numbness of lft
thigh and paralysis of l hip flexors
& knee extensors. Spinal fluid studies
showed high cells & protein.

DATE OF INJURY OR FIRST SIGNS OF ILLNESS <i>2 yrs ago</i> <i>1 1/2 yrs ago</i> <i>2 yrs ago</i>	DATE IMPAIRMENT PRE- VENTED WORK <i>1 1/2 yrs ago</i>	DATE YOU FIRST EXAMINED PATIENT <i>1 1/2 yrs ago</i>	FREQUENCY OF VISITS <i>Daily in past mo.</i>	DATE OF LAST EXAMINA- TION <i>3/22/67</i>
---	---	--	---	---

II. PHYSICAL FINDINGS: Please show all pertinent findings (with dates).

HEIGHT

WEIGHT

143

Confined to neurologic system.

Optic atrophy & blindness
of L eye

Herpes Zoster rash to L1-2,3
numbness & paresthesia on left
Absent KJ

III. LABORATORY AND SPECIAL STUDIES: Give results with dates. (Hemoglobin, Hematocrit, Sedimentation rate, Cerebrospinal fluid, Blood chemistry, Urinalysis, Sputa (smear, culture), Serology, X-rays, Electrocardiogram, Liver function, Bronchoscopy, Myelogram, Biopsy, Pulmonary function, Renal function, Psychometric, etc.)

144

High CSF protein & cells
Negative myelogram

IV. DIAGNOSES:

1. Pulmonary T. B., old
2. Optic neuritis OS, & blindness
3. Horner's Gaster & paralysis of L leg.
? underlying condition associated & gaster myelomatosis.

EXHIBIT

B. 4c

REPORTING PHYSICIAN'S NAME AND ADDRESS

J. M. Block, MD
1527 22nd St. N.W.

SIGNATURE

TELEPHONE NUMBER

TITLE

DATE

8/20/69

LENOX HILL HOSPITAL

145

PATIENT (LAST NAME FIRST) NUSENT, CLEMENT (MR.) 2413		HISTORY NO 340502	JOURNAL NO 10405	GUARANTOR (FIRST, M.I., LAST) MR. CLEMENT NUGENT	
ADDRESS 1005 ALBANY AVE., BROOKLYN NY 11210		CITY & STATE NY		ZIP 11210	
HOME PHONE CE4-0735	DATE ADMITTED 8 7 69	TIME ADMITTED 5:30PM	REP 11373 SP	ACC 11373 SP	ST 11373 SP
BIRTH PLACE N.J.	BIRTH DATE 10 10 14	AGE 54	SEX M	SMWD CODE M	RELIGION CRM
SERVICE NEW	ATTENDING DOCTOR DR. ELOCK	CCODE	F.C.	INS. PLANS	RELATIONSHIP SELF
NEAREST RELATIVE OR FRIEND ANCES		RELATIONSHIP WIFE		PHONE	
ADDRESS SAME		PHONE SAME		BLUE CROSS PLAN MS & UMS	
DIAGNOSIS HERPES ZOSTER-NEURALGIA		CONTRACT NO 6321627 VII		GROUP NO	
FATHER'S NAME PATRICK		BIRTH PLACE IRELAND		MEDICARE NO	
MOTHER'S (MAIDEN) NAME ELLEN NUGENT		BIRTH PLACE 0		MEDICAID NO	
PT. S. REC. NO. 10 0673		PREVIOUSLY ADMITTED TO LENOX HILL HOSP. NONE		OTHER INSURANCE (CARRIER POL NO BENEFITS)	
REMARKS (IF ACCIDENT - DATE - TIME)		ADMITTED BY 11373			

PREVIOUS HOSPITAL TREATMENT **3 2368**

MANNER OF DISCHARGE **8 2369**

FINAL DIAGNOSIS

OPERATIONS

E OF OPERATION

LT ☐ RECOVERED ☐ IMPROVED ☐ UNIMPROVED ☐ DECEASED

EXHIBIT **301 (4-1)**

CHART COPY

EXHIBIT **AC-5**

14 PAGES

REQUEST FOR MEDICAL EVIDENCE
TO HOSPITAL OR INSTITUTION

SOCIAL SECURITY
ACCOUNT NO.
081-18-0678 146
SOCIAL SECURITY ADMINISTRATION
DISTRICT OFFICE

1350 22 St
Brooklyn, NY 11224

Lenox Hill Hospital
111 East 76th Street
New York, NY 10021
ATTENTION: MEDICAL RECORDS DEPARTMENT

I have applied for a determination of disability under the Social Security Act. Accordingly, I would appreciate your furnishing the office shown above information from your records concerning my hospitalization or treatment. I authorize the release of this information to the Social Security Administration. The information you furnish will be used only for official purposes in administering the old-age, survivors, and disability insurance and pertinent vocational laws.

The Administration does not assume any responsibility for payment of fees for furnishing the information requested. A pre-addressed envelope not requiring postage is enclosed.

SIGNATURE OF PATIENT OR OF PERSON (SHOW RELATIONSHIP) FILING ON HIS BEHALF

DATE

Clement B. Nugent

August 26, 1969

PLEASE FURNISH	• A copy of the Discharge Summary which includes history, clinical course, physical and laboratory findings, therapy and response.
	OR
	• If such a summary is not available, a copy of Admission History, Physical Findings, Laboratory and X-ray findings as well as a Final Diagnosis.
	OR
	• Enlargements of microfilm records incorporating the above data.
	OR
	• If you cannot furnish copies of your records, please provide a narrative or other summary which includes this information.
NOTE: IT IS NOT NECESSARY TO FURNISH RECORDS OF HOSPITALIZATION OR TREATMENT PRIOR TO _____	

IDENTIFYING INFORMATION	a. ADMISSION DATE(S)	b. DISCHARGE DATE(S)	c. <input checked="" type="checkbox"/> IN-PATIENT <input type="checkbox"/> OUT-PATIENT	(Give any necessary additional identifying data such as I.D.#, clinic, patient no., etc.)
	1 Aug 7, 1969 Aug 23, 1969			
	d. NAME (Printed) AND CURRENT ADDRESS Clement B. Nugent 1606 Richmond Ave Brooklyn 11210		e. BIRTH DATE 10/17/17	f. NAME AND ADDRESS AT TIME OF ADMISSION (If different)

RUGENT, CLEMENT (MR.) 2413

346902 10485

MR. CLEMENT RUGENT
LENOX HILL HOSPITAL

1603 ALDAMY AVE., BROOKLYN NY 11210

SAME NEW YORK, NEW YORK

ED-8755 0769 5:30PM

11378 SP 2413

SAME

HISTORY AND PHYSICAL

3/7/69

Interns Hx & Physical

147

CC

HPI

Herpes Zoster on left thigh & pain in left hip & knee.
This is the 2nd LHH admission for this 54 year old
male has had Herpes Zoster diagnosed for
abt. 9 days. Small red papular lesions
on left external & medial aspects of thigh
& on glans penis. Claims some of the lesions
are healing. Used Calamine lotion locally.
Had pain in same area abt. 1 wk
prior to onset of rash. Also complains of
continuous pain in left hip & knee
which runs down entire lower extremity
to abt. mid Tibial region for abt. 4 weeks.
Believes he has a weakness of left thigh
because he lifts his leg & thigh manually
to assist in movements. Has been limping
in last week. ^{when he walks the knee it is} Has abt. beginning
of some recent injuries to knee or back
though he did have back injury ~ 15 yrs. ago
which has been asymptomatic for many years.
Has feeling in left knee "as if bone were
pushing through." Knee seemed to swell
slightly last week & has remained swollen.
Tender. Denies h. of arthritis, gout.
Has been on steroid medication for
since 4/12/63 for optic neuritis.
General condition has been good - denies any
recent weight loss - only other complaint
is a "cold" since April treated with
several different antibiotics. Now seems

HISTORY AND PHYSICAL

(continued)

UGENT, CLEMENT (MR.) 2413

346902 10:35

MR. CLEMENT UGENT
LENOX HILL HOSPITAL

603 ALBANY AVE., BROOKLYN NY 11210

SAME

NEW YORK, NEW YORK

A-0755 0 7 63 5.30PM

11378 3P, 2413

SAME

HISTORY AND PHYSICAL

(5)

148

to be improving

PH. Doc - no R.F. had scarlet fever, measles
+ whooping cough

DOA - Tuberculosis 1948 + several recurrences
on INH bec. he needs steroids for optic neuritis

allergies - none

accidents - 3rd finger rt. hand - cut off
work - Long Shoreman - claims exposure to
dusts + toxic fumes.

medications:

INH - 100mg 1 tab tid for 2 yrs.

Prednisone 5mg

3 tab. Tid x 2 days

2 tab tid x 3 days

2 tab Bid x 2 days

2 daily x 2 daily

1 daily x 2 days

on 2 weeks
off 2 weeks

Demerol, 1 tab q. 4hr per pain

calamine lotion

Baking soda in bath tub

for H. Foster

Family hx - negative

ROS Eyes - sudden papilledema 1 yr ago
admitted to LHH to rule out brain tumor

final diag - optic neuritis O.S. +

in photophobia retinal hemorrhages? etiology

O.S. can see outlines + perceive colors

O.D. - no limitations

Ears - & hearing nt. 2° to streptomycin
therapy for TB 1953

HISTORY AND PHYSICAL (continued)

3) (continued)

nose - injured years ago; no epistaxis

mouth - upper plates

neck - no rigidity; no masses

resp. - cold x 4 months - in cough productive
of yellow thick sputum.males - friend observed vibratory or
pulsations through his shirt -
never happened again - denies palpitations.
no SOB.

G.I. - antemonoids, polyp (excised)

no melena, no N, V, or diarrhea.

Neur - swinging head

weakness since 1958 of rt. hand

w/ 25° loss of use. 2° to loss
of 3rd finger.

habits - smokes 1 pk/day; no drink

Surg - removal of rectal polyp 9 yrs. ago.

G.U. - denies any incontinence or any dysuria etc.

RE

W/D, W/N w/in pain when he moves his
left hip & knee.b.p. 140/80 + 130/80 (avg); pulse 92 reg
resp. 22.

HEENT - normocephalic;

PERRL; O.S. - disc not clear in degenerative

Δ's of macula + disc. ? AV knuckly

O.D. - disc clear, no EOH.

ears - full EOM; fields & C/S small
directions

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(continued)

(4)

(continued)

ears - clear

nose - septum deviated to right side

throat - clear

skin - tattoo rt. arm; palms very red

lungs - inspiratory wheezes rt. & left
normal. No percussion
does not clear to coughingcardiac - clear loud sounds; A₂ > B₂

no m's, r's or gallops

abd - soft, flat, nontender, no ruses

genitalia - circumcised; testes & v

red papular rash on glans - nontender

rectal - nontender, no masses; good sphincter

extremities - pulses ++ bilaterally tone

Neurological

Cr. nerves II, III, IV, V, VI, VII, IX, X, XII
are intact

VIII - weaker to left

Renné air > bare bell

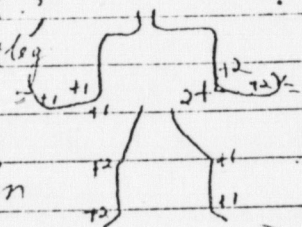
left air cord > rt. air cord

muscle strength - & left thigh

& rt. hand

Reflexes - no path;

gait - limps - favors left leg

Sensory - & light touch
on left thighvib, position & pin
are intact

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⑤ (continued)

sensory is clear, alert, oriented
cerebellar - negative.

3 kcal-mus- passive movement of all extremities
no limitation of motion of left hip
but pain on active & passive
movement of left hip & knee.

Impression

① Optic neuritis O.S.

② Tuberculosis by hx.

③ Herpes Zoster

④ Rlo: osteoporosis 2° to steroids

Traumatic injury to knee or hip.

neuropathy of femoral head

bone tumors.

multiple myeloma

disc compression

Tumor of spinal cord

⑤ Rlo occult neoplasm

J. Rosen

J. Rosen

SCIENT, CLEMENT (R.) 2413

346902 10435

MR. CLEMENT NUGENT
LENOX HILL HOSPITAL
NEW YORK, NEW YORK

606 ALEANY AVE., BROOKLYN NY

11210

SAME

4-0755 8 7 69 5.30PM

1137B SP. 2413

SAME

DOCTOR'S NOTES

BEST COPY OBTAINABLE

152

DATES	Physician's Note	EXAMINATIONS, REMARKS, DAILY NOTES, Etc.
	<p> Just after 17 yrs was known he of active 182. a several vaccination who 1 yr Post was admitted here for evaluation of a (D) type hepatitis the etiology of which was never clearly established and which has been said to predominate 45% which is typed to O. my over a 2 yr period after which he demonstrates chronic x 2 wk and the reestablishment 45% - 50% pattern. He is being covered with 300000000. About 5 wks Post he developed weakness (D) type to inability to flex hip and was being walked on a limp. 9 days Post he developed a zosteriform eruption over (D) lateral + medial thigh also a glass penis - for which he took Demerol about 1 wk Post he developed painful (D) knee with fever of pressure "as if bone in joint, then 1 wk". Post he had productive cough x 2 wks. He is a Streptococcus Post he of Streptococcus 2010 Streptococcus in joint. On Post he (D) Streptococcus to Streptococcus, chest reveals blood smears (D) Streptococcus to ribs. Photo of knee X-ray of knee, Streptococcus bone. X-ray of knee Streptococcus Streptococcus over (D) hip & thigh Streptococcus Streptococcus not clear. ROM of (D) knee is hip full - treated only by pain & back feelers </p>	

346902 10405
11210
11370 SP - 2413

SAFE

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DOCTOR'S NOTES

153

Form 336

DOCTOR'S NOTES

HUGENT C

344902
HUGENT CLEMENT
10485 M 1137-B SP
BLCK 54 B 7 67

DOCTORS NOTES

BEST COPY OBTAINABLE

HISTORY No.

154

DATES	EXAMINATIONS, REMARKS, DAILY NOTES, ETC.
8/8	<p>54 y.o. M. Long hst of T.B. & still on INH 1 1/2 yrs ago noted pain & vision OS. Adm. here & only finding of marked optic papillitis OS & retinal exudates & hemorrh. This has cleared considerably & some residual clearing of disc & marked hypopyc. Pain is severe. Early June '57 began complaining of hip pains - exam on 6/12 was normal except for OS disjoint & deep water walk on glass panes & at night Exams show H. Z. type rash on lateral & medial anterior aspect of L thigh. Probably similar lesion on glau. Note weakness L hip flexion & knee extension, moderate hypopyc. & absence of L K.V.</p> <p>Sup: T.B. old Optic neuritis 25, grade unknown Knee joint 22-30 low normal Lumbar 2? including disc. Working - progress</p>
8/11	<p>Pt alert oriented U.S. Stable. Chest clear to P.A. Neuro - Pt shows some improvement & slight ↑ in strength and reflexes. Initial Lab Data were except for Sed Rate of 54. Anagrams remaining studies X-rays of hips & L.S. spine Negative over</p>

LENOX HILL HOSPITAL, NEW YORK CITY

9

NUGENT C

244902
NUGENT CLEMENT
10485 M 1137-R SP
RLCC 54 8 7 A9

BEST COPY OBTAINABLE
DOCTORS NOTES

HISTORY No. 155

DATES	EXAMINATIONS, REMARKS, DAILY NOTES, ETC.
8/11	Spinal tap Note: Pt prep + draped
(Cont)	L5 S1 infiltrated w 2% Novocaine. 18 ^g Spinal Needle introduced smoothly w good dural pop. Return grossly bloody. Attempted again at L34 w similar results. Tap repeated by Dr Block - wk was initial bloody but cleared - able to aspirate 10 cc - Manometrics invalid. - Results Pnd 134 Ct 697 - CSF dotted wll repeat.
	Pt to be placed in Hip Traction 15 lb and Vitamin B+C IM.
	(Repeat)
8/13	Spinal Tap Note: Pt prepared + draped L45 infiltrated w 2% Novocaine 18 ^g Sp Nd! introduced slowly, atraumatically w good dural pop. CSF return thick + bloody. Attempted at L34 with similar results although fluid clearer. Manometrics showed good rise + fall on cough + abdominal compression but essentially no response w bilateral Tugular compression. 8 cc of pink viscous CSF received w formed a proteinaceous clot. Sent to Lab for Cells, Protein, Glucose and Viral studies.
	Pt today shows some ↑ in strength of L Extr. All Lab Data wll Except Sp L Taps Taps sugg Block - May be on Neoplasia or inflammatory bases. Pt being considered
	LENOX HILL HOSPITAL, NEW YORK CITY

DOCTORS NOTES

HISTORY No.

156

Nugent

DATES	EXAMINATIONS, REMARKS, DAILY NOTES, ETC.
8/13 Cont	for Myelogram. Will do Immuno + protein electrophoresis as well as renal studies Bellett
8/15	Pt alert & alert, VS stable. Still 1/2 of pain in @ hip & thigh. Chest clear, no chx in neuro status. Hypers Rtg improving. Pt to have myelogram Monday. Auscultation of low back neg. CSF shows P 199. CSF & Bld sent for Viral Studies. Continuing Traction & Vitamins Bellett
8/18	Pt alert, VS stable. Still c/o hip pain, all studies other than EP neg. Pt to go for Myelogram today. Neuro status unchanged Bellett
8/19	Myelogram 16 cc pantopaque in 2-7 cc out. Severe pain continues. CSF xanthochromic. Fluorography @. J. P. S. M.

LENOX HILL HOSPITAL, NEW YORK CITY

11

WUGENT C



346902
WUGENT CLEMENT
10405 M 1137-D SP
ALCA 54 8 7 67

DOCTORS NOTES

HISTORY No. 157

DATES	EXAMINATIONS, REMARKS, DAILY NOTES, ETC.
8/10	Spinal fluid is clearing. There is some return of strength. Pain remains severe. Plan p.T. Problem of disabling pain remains. Progress to withholding of narcotics.
8/11	Pt afebrile vs stable. No complaints. Chest clear. Neuro studies improving. 2nd Leg Strength. Repeat Spinal Puncture 87. Immuno electrophoresis will as well as SMA-12. Pt receiving PT will Discharge soon. <i>[Signature]</i>
8/12/67	Pain maneuvers will be done today. <i>[Signature]</i>
8-23	Pain maneuvers from 2nd trial is normal. Will discharge pt.

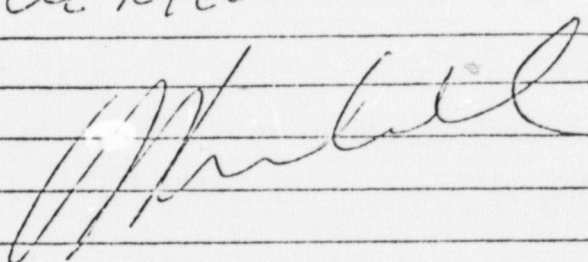
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DOCTORS NOTES

HISTORY No.

BEST COPY OBTAINABLE

158

DATES	EXAMINATIONS, REMARKS, DAILY NOTES, ETC.
8/23/68	Bone Marrow
	Erythroid & Myeloid hyperplasia. No evidence of leukemia or plasmocytoma cells. Megakaryocytes adequate The old bone series are within normal limits.
	Improvement - normal bone diagnostic of marrow
	
	EXHIBIT <u>B-41</u>

LENOX HILL HOSPITAL, NEW YORK CITY

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

159

HEARING EXAMINER'S DECISION

In the case of

Clement B. Nugent
(Claimant)

Clement B. Nugent
(Wage Earner)

Claim for

Disability Insurance Benefits

081-18-0678

(Social Security Account Number)

On September 4, 1968, the claimant, Clement B. Nugent, filed an application to establish a period of disability and for entitlement to disability insurance benefits under the provisions of the Social Security Act, as amended.

In such application he alleged he had become unable to work because of optic neuritis and blindness in left eye as of March 15, 1968. Initially and upon reconsideration the Social Security Administration on October 25, 1968 and December 5, 1968 disallowed such application upon its determination that he had failed to demonstrate, in the light of his impairment, age, education, and vocational experience, an inability from engaging in his customary work.

Dissatisfied therewith claimant requested a hearing before a hearing examiner of the Bureau of Hearings and Appeals. A hearing at which he was present was held before this hearing examiner on May 12, 1969 at New York, New York. In addition to claimant there were present thereat his wife, Agnes R. Nugent, his representative, and Mr. Milton Feld, an impartial Vocational Expert and witness.

The primary issue before the hearing examiner for decision is whether the claimant is under a "disability" pursuant to the provisions of the Social Security Act. Section 223(d) of Social Security Act, as amended, defines "disability" (except for certain cases of blindness) as the "inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to last for a continuous period of not less than 12 months."

It further provides that "an individual (except a widow, surviving divorced wife, or widower for purposes of section 202(e) or (f)) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work

EXHIBIT B42 (2050)

experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether if he applied for work. For purposes of the preceding sentence (with respect to any individual), 'work which exists in the national economy' means work which exists in significant numbers either in the region where such individual lives or in several regions of the country."

Section 216(i)(1)(B) provides -

- - - - - the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 223(d) provides further -

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i)(1), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

Section 223 of the Act provides for the payment of disability insurance benefits to an otherwise qualified individual who is under a disability within the meaning of the aforesaid Act.

It may be stated at the outset, that based on the medical evidence which will be detailed at length hereafter, claimant does not meet the statutory test for blindness, and hence the issue of the presence or absence of disability in his case will be determined pursuant to the general definition of disability contained in Section 216(i)(1) and 223(d)(1) which are of similar import.

In his application the claimant states he was born on October 18, 1914 in Hackensack, New Jersey and was last employed during March 1968 at

which time his alleged disability began. From a Report of Disability Interview of him at the ~~District Office~~ at the time his application was filed the following, in substance, appears.

Sometime in January 1968, experiencing difficulty in reading with glasses and unusual eye symptoms, he visited an ophthalmologist, Dr. James A. Inciardi on March 22, 1968. On the advice of Dr. Inciardi, he saw a neurologist, Dr. J. M. Block who treated him at Lenox Hill Hospital, but currently he declared his vision was very poor in connection with both eyes. In addition he said, he had a case of arrested tuberculosis.

He usually arose at 5:30 a.m., made a hot beverage for himself, dressed, walked about 10 blocks each way to buy a newspaper, returns to wake his children, makes his own breakfast, does some of the family's shopping at a supermarket about 10 blocks from his private home, chats with friends, naps, and goes to bed about 9:30 p.m. or 10 p.m.

From claimant's oral testimony it appears that after he graduated from elementary school he attended high school for a period of three years. Upon leaving school, he declares, he was employed for about eight years, delivering newspapers for his father who was in the real estate business. Thereafter, amongst other employment, some of it strenuous physical labor, he worked in an office as assistant Field Foreman for an oil company. He sat at a desk and with two assistants kept records, ordered gasoline needed to operate mechanical equipment, kept official forms, and checked machines for gas usage to establish proper use of gasoline ordered.

At one time he had also been a plumber's helper and hatchman on the docks. The latter position was a supervisory one. He directed the loading and unloading activities of a gang of 20 longshoremen. He, himself, has been employed for many years as a longshoreman. His tour of duty as a hatch boss ended only because of a reduction in the number of hatch bosses in accordance with the seniority rule.

In connection with the medical aspects of claimant's withdrawal from work, Dr. Marvin S. Siegel, a General Practitioner, states in a report dated November 7, 1968, that the claimant, since he began to treat him in 1946 has been treated for acute pneumonitis in 1965, 1966, and 1967. He had referred him, he declared, many years ago to Dr. Charles Schuman for treatment of pulmonary tuberculosis.

Dr. Charles Schuman, a Board-qualified Internist specializing in tubercular and lung diseases has furnished a number of reports in connection with his treatment of claimant. In his first report, dated September 28, 1968, he gives a history of pulmonary tuberculosis dating

back to August 1948 with hospitalization during which an initial pneumothorax was done on left side and lesion later appearing at right. There was good response to medication and despite several reactivations, Dr. Schuman declared, the condition was fairly well controlled.

With regard to claimant's current vision impairment, Dr. Schuman stated it did not relate to his pulmonary condition. Referring to the steroid therapy for the vision condition applied by the ophthalmologist, Dr. Schuman felt it had the potential of reactivating the tuberculosis and to avoid this anti-tuberculosis therapy must be administered in conjunction with such cortisone therapy. Upon physical examination of claimant, aside from noting partial loss of vision of left eye, Dr. Schuman did not observe any abnormality referable to lung except for the effects of a cold experienced during the prior week by claimant. Heart, abdomen areas, and extremities were normal.

In his second report made on November 2, 1968, Dr. Schuman does not add to the earlier one, except that because of the reactivation problem presented by cortisone therapy, he had advised complete rest for claimant.

In a third report, dated January 6, 1969, Dr. Schuman states claimant had developed progressive blindness in left eye. With regard to the tubercular condition, according to Dr. Schuman therapy had been discontinued in 1953. The most recent activation was in 1965, but in the presence of steroid therapy and the danger that it might reactivate the tubercular condition, he had advised claimant to stop work. In his fourth report, Dr. Schuman on February 28, 1969 reiterates the past history of claimant's condition, states he has been administering anti-tuberculosis drug therapy, and had advised limited activity though there had not been any reactivation of lung condition. In a last report, dated April 21, 1969, Dr. Schuman states he has been informed by claimant, though the vision of left eye deteriorated under cortisone therapy, it is continuing.

In a letter to Dr. Marvin Siegel, dated March 22, 1968, Dr. James Inciadi, states claimant came to see him because of cloudy vision in the left eye of a months duration. He recounted that whereas in January 1965 there was 20/20 vision in left eye, currently claimant could only count fingers at close range. Also there was a pupilledoma of the left disk with scattered small hemorrhages and increased intracranial pressure. He recommended a neurological survey and check as to foci of infection.

Dr. Jerome M. Block, a Board-qualified Neurologist and specialist in Physical Medicine, in a first report, dated September 14 and 15, 1968, declares claimant has had decreased vision in left eye since February 1968. Upon a full neurologic-ophthalmologic study of claimant, he observed only severe optic neuritis in left eye with swelling of disk,

hemorrhages and exudates. He made a diagnosis of optic neuritis of left eye with blindness and ~~retinitis~~ ~~pulmonary tuberculosis~~. Upon contact with Dr. Block's office on October 4, 1968, the Administration was informed by his nurse that claimant's visual acuity in right eye was 20/20 with best correction.

In his second report, made two months after his first, Dr. Block, iterated his prior diagnosis with the addition of bilateral hearing loss and concluded could not resume work as a longshoreman. The extent of the aforesaid hearing loss and medical evidence with respect thereto were not given.

In his last two reports or certificates, dated January 13, 1969 and February 25, 1969, Dr. Block briefly repeats his prior statements in connection with claimant's impairment. He refers to the circumstance that because of claimant's past history of pulmonary tuberculosis cortisone treatment was significantly limited and incomplete. Therapy was never applied at shorter intervals than two weeks.

On February 17, 1969 claimant was examined by Dr. Anthony J. Farranco, an impartial Medical Consultant and Board-qualified Ophthalmologist. He found no disease of right eye. The left eye revealed the presence of optic neuritis. Vision in left eye was 3/400 uncorrectable or improvable with glasses. He felt doubtful that improvement could take place in the future.

Right eye had distant vision of 20/20 with and without best correction. Near vision correction using Jaeger test was J1, tension 17.3.

From the medical evidence it clearly appears that claimant is essentially blind in left eye and completely normal vision in right eye. Though claimant was hospitalized for his pulmonary tuberculosis from August 2, 1948 to April 1, 1949, it has not been shown to have been active thereafter and all therapy for such condition was discontinued in 1953 and not resumed until last year when it was introduced again as a precautionary measure against the possible effects of cortisone steroid treatment for the eye condition.

Despite the reference to claimant's chest impairment as severe pulmonary tuberculosis, in a report by Dr. Block, the medical evidence provides no supporting clinical or laboratory support for such conclusion. Neither is such support to be found in the non-medical evidence. Claimant's tuberculosis has been inactive for very many years during which he worked regularly on the docks performing tasks which required strenuous physical activity. This is reflected by his social security earnings record which also shows substantial earnings.

Dr. Schuman states that there have been several reactivations of claimant's

tuberculosis over the years, but Dr. Siegel who had cared for him since 1946 speaks only of acute pneumonitis in September 1965, March 1966, December 1966, and October 1967. Details of such episodes are not given by either doctor. According to claimant's earnings record he was employed in all quarters of 1965, 1966 and 1967 and earned annual wages of \$5,415.24, \$7,545.44 and \$6,175.43, respectively.

Insofar as steroid therapy could possibly reactivate claimant's pulmonary tuberculosis and thus required a reduction of physical activity, Dr. Block in his initial report stated his opinion as follows - he "cannot resume work as a longshoreman". He did not interdict all physical activity.

The medical and other evidence other than for blindness of left eye, does not reveal any other severe impairment. His circulatory system is normal. Orthopedic impairments are absent. Claimant's ability to stand, sit, and walk are not circumscribed. His understanding is not impaired. He can hold, lift, push, handle and manipulate objects. He has normal vision of right eye. Assuming his hearing is impaired, sitting about five feet from the hearing examiner his responses to the questions put to him by the hearing examiner demonstrated he had heard such questions. Only rarely was a question repeated.

In his daily activities claimant walks at least distances of 10 blocks each way and the medical and other evidence does not indicate an inability to walk long distances. The aforesaid limitation is measured only by the distance needed to be walked by the claimant from his home to a shopping market where he does his marketing and purchases his newspaper.

Claimant in the light of his impairment, age, education, and vocational experience possesses the physical and mental capacity, and has had such ability from the time of onset of his alleged disability in March 1968 to engage in light and sedentary substantial gainful activity.

The vocational expert is in agreement with the aforesaid finding.

Present throughout the oral hearing, having observed the manner of his participation in the hearing, and having studied the medical and other documents received in evidence, prior to such hearing, he testified that on the basis of his experience in the placement of individuals handicapped in the manner of the claimant, in the light of his impairment, age, education and work experience, in his opinion claimant during the period which has ensued, beginning with March 1968, had the ability and capacity to engage in light and sedentary substantial gainful work as an inventory clerk, general office clerk, timekeeper, and information clerk

and order taken. All of such work, he testified, could be performed in a sitting position or changing position, and were reasonably available to the claimant in the area of New York City, where claimant resides and in adjacent economic regions.

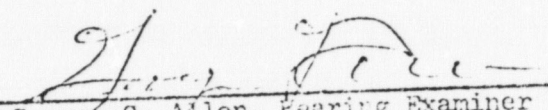
Based upon his own placement experience, reference to local economic studies, New York State Employment Office data, newspaper want ads, and other employment reports, the vocational expert was of the opinion that the opportunities for employment in the job categories named by him were most extensive and readily available in the economy of New York City.

Having carefully considered the entire record of this case, including claimant's oral testimony and argument, together with the medical, vocational and other evidence, the hearing examiner finds:

1. On his present Social Security Earnings Record, claimant continues to meet the earnings requirements of the Social Security Act, as amended, for disability purposes through December 31, 1972.
2. In the light of his impairment, age, education and vocational experience claimant has been, and is, able to engage in substantial gainful activity, as an inventory clerk, general office worker, timekeeper, information clerk and order taker.
3. Claimant has not been under any disability within the meaning of the Social Security Act, as amended.
4. Claimant has not been prevented from engaging in any kind of substantial gainful activity by reason of any medically determinable impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of at least 12 calendar months.

Accordingly, it is the decision of the hearing examiner that the claimant is not entitled to the establishment of a period of disability pursuant

to Section 216(i) or to disability insurance benefits under Section 223, of the Social Security Act, as amended.


George G. Allen, Hearing Examiner
Bureau of Hearings & Appeals, SSA
26 Federal Plaza, Room 3138
New York, New York 10007

MAY 29 1969

Date: _____

EXHIBIT B-42



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION

Take or mail original and all copies to the District Office, Social Security Administration

CLAIMANT'S NAME Clement B. Nugent	CLAIM FOR <input checked="" type="checkbox"/> Entitlement to Disability Benefits (97) <input type="checkbox"/> Continuance of Disability Benefits (98) <input type="checkbox"/> Other (Specify type claim)
WAGE EARNER'S NAME Clement B. Nugent	
SOCIAL SECURITY ACCOUNT NUMBER 081-18-0678	

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I disagree with the hearing examiner's action on the above claim and request that the Appeals Council, Bureau of Hearings and Appeals, review it. My reasons for disagreement are:

"Claimant's letter dated 6-16-69."

Attach to this form, or forward within 10 days to the Appeals Council at the address shown below, any evidence or supplemental statement you wish to submit.

I understand the Appeals Council may deny my request for review, but if it grants the request:

☐ I wish ☐ do not wish to appear before the Appeals Council in Washington, D.C. at my own expense.

☐ I wish ☐ do not wish to file a brief or further written statement.

Signed by: (Either the claimant or representative should sign - Enter address for both)

SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE		CLAIMANT'S SIGNATURE /s/ Clement B. Nugent
STREET ADDRESS		STREET ADDRESS 1606 Albany Ave.
CITY, STATE, AND ZIP CODE		CITY, STATE, AND ZIP CODE Brooklyn, New York 11210
TELEPHONE NUMBER	DATE:	TELEPHONE NUMBER

Claimant should not fill in below this line

Is this request filed within 60 days of the hearing examiner's action? ☐ Yes ☐ No

If "No" is checked: (1) attach claimant's explanation for delay; (2) attach any pertinent letter, material or information in the district office.

ACKNOWLEDGMENT OF REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION

Request for Review of Hearing Examiner's Action in this case was filed on the date shown and at the place indicated.

The APPEALS COUNCIL will notify you of its action on your request.

Appeals Council
Bureau of Hearings and Appeals, SSA
P.O. Box 2518
Washington, D.C. 20013

Date request for review was filed
6-23-69

Place where request for review was filed
Baltimore, Md.

For the Social Security Administration

BY (Signature)
James H. Nease

(Title)
Director

(Street Address)
P. O. Box 2518

(City) (State) (ZIP Code)
Washington, D. C. 20013

AMBI 045

June 16, 1963

168

Dear Sir -

NOT RECORDED
JUN 20 11 30 PM '63

As I seem to be getting no where in my
battle with S.S. - I am writing to you - for both
a Health ^{and} Welfare Problem are involved. -

I am - an arrested case of Tuberculosis. Con-
tracted while in the Service - I also have an
eye condition of unknown etiology - which has
rendered me legally blind in my left eye -
my two lungs have been affected by the T.B. -
I have a chronic impairment of my hearing -
partial loss of use in my right hand - S.S. claim
I am not disabled enough to be retired.

My Chestman will not allow me to do any
work - as the medication given to reduce the
hemorrhages behind my eye can - or so my Doctor
wants me to rest for re-activating T.B.

I have not worked since March 15, 1963 -
S.S. has refused to take my Record from Leland Hill
Hospital, as proof. They ask S.S. - claim they have
no documented proof of my disabilities - the proof

II

is there for the taking - as I signed the waiver in Sept
of last year - for them to get it - The person in the
Record Room at Lewis Hall - told me they had sent ¹⁶⁹
five pages of text - plus a covering page to S. P.
S. P. re-edited what was sent - as it was not in my
file - The Hearing Committee - over ruled every
Statement I made - including why a Surgeon must
a limited practice evaluated my case - They also
had a man going for his Ph.D. who over ruled my
Doctor's Statement that I could not work at the
time - (a sudden medical report)

My Chest man has treated me since 1973 - and
at no time - since then when I was seriously dis-
abled - did he tell me I could do no work - He
now tells me I can do no work while under this
stereoid medication - for I also have daily doses
of anti T.B drugs as well -

Must I get really sick - before I can collect
on my benefit - for should I become re-activated
it would be most difficult - for I am giving
a re-action to the streptomycin - which had to be

stopped at the end of December - as it was taking
its toll on both my mind and person - I
still have to take I.H.H. and another drug ¹⁷⁰ - drugs -
The new drug has just been prescribed - the I.H.H.
I have been taking - since a year ago April -

I have about a month before I file my appeal
with the S.S. My doctors have written many letters.
They were refused to let me leave of the Hospital
and on good pieces of paper -

Please let me know if you can help -
for when you are coming up Social Security
and have to go on Welfare - it goes back to
your Department - If this happens with
regularity - the Welfare Department will be
under the cover - while Social Security will be
King of the Mountains - Why are we
paying it?

I do hope you can do something -

7210 8 30 1967

HEM-02

7210 8 30 1967
Clement B. Nugent

RECEIVED
OCT 1 1967

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE

171

July 23, 1969

HAIC
Account No.
081-10-0673

ACTION OF APPEALS COUNCIL ON REQUEST FOR REVIEW

Mr. Clement G. Nugent
1605 Albany Avenue
Brooklyn, New York 11210

CERTIFIED MAIL
DISPATCHED

JUL 23 1969

NO. 32733

Dear Mr. Nugent:

Your request for review of the hearing examiner's decision has been carefully considered by the Appeals Council. The Council's consideration of your request has included all the evidence in your case, the law and regulations applicable to your claim, the hearing examiner's evaluation of the facts and the reasoning in his decision, and your reasons for believing your claim should be allowed. Evidence in addition to that which was before the hearing examiner has been received by the Appeals Council.

The Appeals Council has concluded that the decision of the hearing examiner is correct. Further action by the Council would not, therefore, result in any change which would be of advantage to you. Accordingly, the hearing examiner's decision stands as the final decision of the Secretary in your case.

If you desire a review of the hearing examiner's decision by a court, you may commence a civil action in the district court of the United States in the judicial district in which you reside within sixty (60) days from this date. See section 201(g) of the Social Security Act, as amended (section 405(g), Title 42, United States Code). If such action is commenced, the Secretary of Health, Education, and Welfare is the proper defendant.

CC:
Div. of Benefit Services, Balt.
D/O, Brooklyn, N.Y. 11226
H/E Off., New York, N.Y. 10007
(H/E Allen)

Sincerely,

Irving Trager
Irving Trager
Member, Appeals Council

Charles H. Erismann
Charles H. Erismann
Member, Appeals Council

FILE COPY

COPY SSA-934

ITrager:drs

OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE

EXHIBIT

Bill



APPLICATION FOR DISABILITY INSURANCE BENEFITS

Form approved.
Budget Bureau No. 72-R530.7

(Do not write in this space)

*Search
done in
file
2/15/10*

172

NOTICE. — (a) Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act, or (b) whoever, having received a payment for the use and benefit of another person, knowingly and willfully uses such payment for other than the person for whom it is received, is subject, under the Social Security Act, to a fine of not more than \$1,000 or 1 year's imprisonment, or both.

I hereby apply for a period of disability and/or all insurance benefits payable to me under Title II of the Social Security Act, as amended.

1. Enter your full name <i>CLEMENT NOBERT</i>		(Check one) <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Enter your Social Security number (If none or unknown so indicate) <i>081 18 0678</i>
2. Enter your date of birth (Show month, day, and year) <i>10/18/14</i>	Enter the name of the State or Foreign Country where you were born <i>New Jersey</i>		
3. (a) Have you (or has someone on your behalf) ever filed an application for monthly social security benefits before? <input type="checkbox"/> Yes (If "Yes," answer (b), (c), and (d)). <input type="checkbox"/> No (If "No," go on to item 4).			
(b) Kind of claim filed <i>DISABILITY</i>			
(c) Enter name of person on whose earnings record you filed other application(s) <i>WIFE</i>		(d) Enter Social Security Number of person named in (c) <i>081 18 0678</i>	
4. What is your disability? (Briefly describe your impairment, that is, the injury or illness that prevents, or has prevented, you from working.) <i>T.B. LUNGS. — Legally blind (one eye) — also in Paralysis of Left Hip</i>			
5. (a) When did you become unable to work because of your disability?		DATE (Month, day, and year) <i>3/15/61</i>	
(b) Are you still disabled? <input checked="" type="checkbox"/> Yes (If "Yes," go on to item 6.) <input type="checkbox"/> No (If "No," answer (c).)			
(c) If you are no longer disabled, enter the date you were again able to work. _____		DATE (Month, day, and year)	
6. Check the first block which applies to you.			
(a) <input type="checkbox"/> Confined in a medical institution other than a general hospital	(d) <input type="checkbox"/> Confined in a chair (Including wheel chair)		
(b) <input type="checkbox"/> Patient in a general hospital	(e) <input type="checkbox"/> None of the above but unable to go outside		
(c) <input checked="" type="checkbox"/> Confined in bed at home	(f) <input type="checkbox"/> Able to go outside but only with help of another person or device		
	(g) <input type="checkbox"/> Able to go outside without help		

EXHIBIT *245 (472)*

7. (a) Have you filed (or do you intend to file) a claim for disability benefits under any workmen's compensation law or plan? ☐ Yes ☒ No
(If "Yes," answer (b). If "No," go on to item 8.) 173

(b) If you have filed such a claim, has there been a decision on the claim? ☐ Yes ☐ No
(If "Yes," answer (c). If "No," go on to item 8.)

(c) Enter the amount of the weekly payment made to you AMOUNT
\$
(If you are receiving or have received payments on other than a weekly basis, such as bi-weekly or monthly payments, or if you have received a lump-sum payment based on your workmen's compensation claim, please indicate in "Remarks" and include the amount of such payment or payments.)

8. Did you work in the railroad industry any time on or after January 1, 1937? ☐ Yes ☒ No

9. (a) Were you in active military or naval service after September 7, 1939? ☐ Yes ☒ No
(If "Yes," answer (b) and (c). If "No," go on to item 10.)

(b) Enter name of branch (Army, Navy, etc.), country served (if other than U.S.) and dates of service.

US Army 1/27 1945 - 6/4/46

(c) Have you received, or do you expect to receive, a benefit from any other Federal agency? ☒ Yes ☐ No
(If "Yes," enter the names of all such agencies.) VETS Admin

10. • Enter the names and addresses of all the persons, companies or government agencies for whom you worked during the last 12 months.
• If you worked in agricultural employment, give this information for this year and last year.
• If you were not employed during the past 12 months, enter the information for your last period (no matter how long) of employment.

NAME AND ADDRESS OF EMPLOYER	WORK BEGAN		WORK ENDED (If still working show "Not Ended")	
	Month	Year	Month	Year
US Longshoremen US Lines Harbor		1947	3/11	68
(If you need more space, use "Remarks" space on the back page.)				

11. May the Social Security Administration or the State agency reviewing your case ask your employers for information needed to process your claim? ☒ Yes ☐ No

12. Were you self-employed this year, last year, or the year before? ☐ Yes ☒ No
(If "Yes," answer question 13. If "No," go on to item 14.)

Check the year or years in which you were self-employed.	In what kind of trade or business were you self-employed?	Were your net earnings from your trade or business \$400 or more? (Check "Yes" or "No")
<input type="checkbox"/> This Year		
<input type="checkbox"/> Last Year		<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Year Before Last		<input type="checkbox"/> Yes <input type="checkbox"/> No

14.	How much were your total earnings last year? (Count both wages and self-employment income. If none, write "None")	\$ <u>None</u> 174
15.	How much have you earned so far this year? (If none, write "None")	\$ <u>None</u>
16.	(a) Are you married? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If "Yes," give the following information about your wife or husband.)	
	WIFE'S MAIDEN NAME OR HUSBAND'S NAME	DATE OF BIRTH (If unknown show age)
	DATE OF MARRIAGE	If husband or wife is age 62 or over or is filing for disability benefits, enter his or her Social Security No.
	<u>McHugh</u> <u>Agnes McHugh</u>	<u>10/12/16</u> <u>11/29/41</u>
	<u>None</u>	
	(b) If you are a married woman, was your husband receiving at least one-half of his support from you at the time you became unable to work because of your disabling condition, or is he receiving at least one-half of his support from you now? <input type="checkbox"/> Yes <input type="checkbox"/> No	
17.	Your children (including natural children, adopted children, and stepchildren) may be eligible for benefits based on your earnings record if they are now, or were, in the past 12 months unmarried and: <ul style="list-style-type: none"> • under age 18 • age 18 to 22 and attending school • age 18 or over and under a disability (which must have begun before age 18) 	
	(a) Do you have children who may qualify for benefits under any of the above conditions? <input type="checkbox"/> Yes <input type="checkbox"/> No (If "Yes," enter the names of all children)	
	NAME OF CHILD	NAME OF CHILD
	<u>Thomas B. Bryant</u>	
	(b) Do you wish to apply, on behalf of all the children named in item 17(a) for all insurance benefits payable to them under Title II of the Social Security Act, as amended? (You may apply even though you do not wish to be payee for a child's benefits.) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If "No," enter under "Remarks" the name of each child for whom you are not applying and give your reasons.)	
18.	Answer question 18 only if you are married and your husband or wife is applying for benefits.	
	(a) Check (✓) whether your marriage was performed by: Clergyman or authorized public official <input type="checkbox"/> , or other <input type="checkbox"/> (Explain)	
	(b) Were you married before your present marriage? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If "Yes," give the following information about each of your previous marriages.)	
PREVIOUS MARRIAGE	TO WHOM MARRIED	WHEN (Month, day, and year)
	HOW MARRIAGE ENDED	WHERE (Enter name of city and State)
PREVIOUS MARRIAGE	TO WHOM MARRIED	WHEN (Month, day, and year)
	HOW MARRIAGE ENDED	WHERE (Enter name of city and State)
(Use "Remarks" space for information about any other marriage.)		
19.	Do you have a dependent parent who was receiving at least one-half of his or her support from you at the time shown in item 5(a) when you became unable to work because of your disability? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

(Over)

20. Do you authorize any physician, hospital, agency, or other organization to disclose to the Social Security Administration or to the State agency that may review this application or your continuing disability, any medical records or other information about your disability? ☒ Yes ☐ No 175

The events listed below may affect your entitlement to disability insurance benefits:

(a) Your MEDICAL CONDITION IMPROVES so that you would be able to work, even though you have not yet returned to work.

(b) You GO TO WORK whether as an employee or self-employed person.

(c) You apply for periodic benefits under any workmen's compensation law or plan.

If you are now hospitalized -

(d) You are DISCHARGED FROM THE HOSPITAL.

21. Do you agree to notify the Social Security Administration promptly if any of the above events occur? ☒ Yes ☐ No

Answer question 22 only if (a) you are at least age 62 (or are a widow at least age 60) AND (b) you are not currently entitled to a reduced old-age insurance benefit or a reduced widow's insurance benefit. Persons at least age 62 (or widows at least age 60) may be eligible for reduced retirement benefits. If you accept such reduced benefits your payments will be permanently reduced. The amount of reduction will depend upon several factors such as, your age, whether or not your claim for disability insurance benefits is allowed, and the first month of your entitlement to benefits.

22. Do you wish this to be considered an application for any reduced benefits for which you may be eligible? ☐ Yes ☐ No

REMARKS: (This space may be used for explaining any answers to the questions. If additional space is required, attach separate sheet.)

IMPORTANT INFORMATION. PLEASE READ CAREFULLY. - A claimant for disability insurance benefits is required to submit medical evidence showing the nature and extent of his disability during the time he alleges he was under a disability. If such evidence is not sufficient to arrive at a determination, he may be requested to have an independent medical examination at the expense of the Social Security Administration. Should Social Security obtain information useful to his physician for treatment, such information may be furnished to him.

Knowing that anyone making a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law, I certify that the above statements are true.

SIGNATURE OF WITNESSES		SIGNATURE OF PERSON MAKING STATEMENT	
If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full addresses.		SIGNATURE (First name, middle initial, last name) (Write in ink)	
1. SIGNATURE		SIGN HERE <i>[Signature]</i>	
ADDRESS (Number and Street, City, State and ZIP Code)		MAILING ADDRESS (Number and Street, Apt. No., P.O. Box, or Rural Route) <i>1606 Albany Ave</i>	
2. SIGNATURE		CITY AND STATE <i>Brooklyn NY</i>	ZIP CODE <i>11210</i>
ADDRESS (Number and Street, City, State and ZIP Code)		DATE (Month/day/year) <i>5/16/70</i>	TELEPHONE NUMBER
ENTER NAME OF COUNTY (if any) IN WHICH YOU NOW LIVE			

STATEMENT BY WIFE OR DEPENDENT HUSBAND OF DISABLED PERSON

The wife or dependent husband of an applicant for disability insurance benefits should answer the following question if present when this application is completed, and is at least age 62, or, in the case of a wife under age 62, has in her care any child named in item 17 who is under age 18 or disabled.

Do you desire this application to be an application for any social security benefits payable to you?

☐ Yes ☐ No

SIGNATURE OF WIFE OR DEPENDENT HUSBAND (Write in ink)

[Signature]

EXHIBIT

3-115

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

FORM APPROVED
BUDGET BUREAU 72R523.5

DISABILITY DETERMINATION AND TRANSMITTAL				1. FOLDER TO: BDI <input type="checkbox"/> SA <input checked="" type="checkbox"/> DFC <input type="checkbox"/>		2. DATE APP'D. 2/19/70	
3. W/E (If Auxiliary Filing)		OASI W/E <input type="checkbox"/>	DIB W/E <input type="checkbox"/>	4. SOCIAL SECURITY ACCOUNT NUMBER 081-18-0678 / 176			
5. NAME AND ADDRESS OF CLAIMANT Clement B. Nugent 1606 Albany Avenue Brooklyn, N.Y. 11210		6. DB 10/18/14	7. SEX M <input checked="" type="checkbox"/> F <input type="checkbox"/>	8. RACE W <input checked="" type="checkbox"/> N <input type="checkbox"/> O <input type="checkbox"/>	9. AOD 3/15/68	10. AT AGE 53	
11. CLAIM FOR FREEZE <input type="checkbox"/> DIB <input checked="" type="checkbox"/> CHILD <input type="checkbox"/> DWS <input type="checkbox"/>		12. FAMILY STATUS MAR <input checked="" type="checkbox"/> SG <input type="checkbox"/> NO CHILDREN (UNDER 18) 1		13. OC REQ. LAST MET 3/31/73		14. <input type="checkbox"/> W/E DOES NOT MEET 20/40 REQ. A. <input type="checkbox"/> DIS BDI REVIEW B. <input type="checkbox"/> SINCE LAST DET.	
15. PREV. DENIED OR TERM.		16. NON-DIS. DEV. IN PROGRESS		17. MED. DEV. DEF.			
18. SA CODE 330	19. STATE New York	20. DISTRICT OFFICE ADDRESS 135 E. 22 St. Brooklyn, N.Y. 11226			DO CODE 127	RO CODE 21	
FILE REVIEWED & APPROVED FOR TRANSMITTAL		23. REMARKS Recd. In S/A 3/30/70					
21. CLAIMS REPRESENTATIVE		22. DATE OF TRANSMITTAL					
PERSUANT TO PROVISIONS OF SEC. 221 OF SOCIAL SECURITY ACT, IT IS DETERMINED THAT THE CLAIMANT:							

24. <input type="checkbox"/> HAS BEEN UNDER A DISAB. SINCE 1/1/70	25. <input type="checkbox"/> WAS UNDER A DISAB. A. DATE FROM B. TO	26. <input type="checkbox"/> WAS NOT UNDER A DISAB. ON OR BEFORE (Date)	29. DIAGNOSIS OPTIC NEURITIS NEURALGIA
27. <input type="checkbox"/> WAS NOT UNDER A DISAB.	28. CASE OF BLINDNESS AS DEFINED IN SEC. 216(i) A. <input type="checkbox"/> NOT UNDER A DISAB. FOR CASH BENEF. PURP. B. <input type="checkbox"/> UNDER A DISAB. FOR CASH BENEF. PURP. SINCE		30. MOB CODE 1
31. VOCATIONAL BACKGROUND (Occupation)			OCC. YEARS EDUC. YEARS
32. BASIS FOR DETERMINATION 100% A (1)			

<input type="checkbox"/> CONTINUED ON ATTACHED SHEET (Use OA-D831)			
33. RECOMMEND RE-EXAMIN (Date)	34. DISABILITY EXAMINER SA	35. DATE	36. REVIEW PHYSICIAN SA / 6 ne co penter
37. DATE			

38. <input type="checkbox"/> CHILD'S DISABILITY BEGAN BEFORE AGE 18 AND CONTINUES.		39. <input checked="" type="checkbox"/> W/E MEETS 20/40 TEST IN 6/69 OTR	40. A PERIOD OF DISABILITY IS ESTABLISHED FROM 6/69 cont
<input type="checkbox"/> CHILD NOT UNDER A DISABILITY WHICH BEGAN BEFORE AGE 18.		<input type="checkbox"/> W/E DOES NOT MEET 20/40 TEST, HAS OF 40 OTRS. ENDING	

41. REMARKS See revised 83L of 7/8/70		42. DATE		43. DISABILITY EXAMINER		44. DATE	
42. <input type="checkbox"/> BDI <input checked="" type="checkbox"/> PC		43. CLAIMANT TO BE NOTIFIED BY: 49. TYPAR NO		50. BASIS CODE 2		51. AOD CODE A1	
52. PRIOR ACT. <input checked="" type="checkbox"/> PD <input type="checkbox"/> PT		53. RETURN CODE R-		54. CAT. <input checked="" type="checkbox"/> DIB <input type="checkbox"/> OSF <input type="checkbox"/> CH <input type="checkbox"/> FR		55. SPECIAL CODE VA <input type="checkbox"/> VAD	

FORM OA-D831 (7-69)

1-FOLDER COPY

EXHIBIT Bill (copy)

CONTINUATION SHEET
FOR DISABILITY DETERMINATION

BP:ero 8

177

NOTE.—Use this form only when necessary for continuation of Item 32 of "DISABILITY DETERMINATION" or "CESSATION OR CONTINUANCE OF DISABILITY".

NAME Clement B. Nugent	NAME OF WAGE EARNER (IF AUXILIARY FILING)	SOCIAL SECURITY ACCOUNT NO. 081-18-0678	DATE 4/1/70
---------------------------	---	--	----------------

Disability is alleged since 3/15/68 due to an eye, ear conditions and loss of the right arm and tuberculosis.

The report of disability was held on 2/19/70 at that time it was noted that the claimant's day is spent on couch or in bed. He is under heavy sedation. Therefore he could not be communicated with. His wife supplied the information that sedation is necessary due to severe pain in his hip. He is also on dilantin.

Report in file from Jerome Block, a Diplomate in Neurology, indicates in a report which is dated 3/16/70 that the claimant had a fairly sudden onset in 2/68 of pain behind the left eye and decreased vision in the eye. Neurological evaluation at that time in the office and at Lenox Hill Hospital shows severe optic neuritis on the left with swelling of the disc, hemorrhages and exudates of the left eye. The hemorrhages and exudates have since, to a great part, resolved, but the disc was pale and he was blind in the eye. He was treated with medications on a limited basis because of chronic wide spread pulmonary tuberculosis in the past. In addition, in 6/69 he developed pain in the left hip and at the end of 7/69 he developed a rash, typical of Herpes Zoster appeared over the anterior lateral aspect of the left hind thigh and calf. There was severe hip and leg pain present which increased with the appearance of the rash. Neurologic findings at that time, aside from bilateral deafness and left sided blindness, were marked weakness of hip flexion and knee extension. Since hospitalization at Lenox Hill, the rash has disappeared however, he remains with a parietic left hip and knee with marked weakness of the left muscles and milder weakness of the dorsi flexes of the left foot. There is also some urinary urgency and stress and incontinence. There is hypalgesia of the L2-3,4 distribution on the left side. He complains of constant severe pain in the left buttock and leg and requires phenobarbital and demerol. He is also taking dilantin however, these have not controlled the pain. In addition, there is shortness of breath with wheezing throughout the lung fields with scars of the Herpes Zoster over the left leg with paralysis of the left leg, partial but significant. The diagnoses are blindness, left eye; deafness, bilaterally, the right greater than the left; pulmonary tuberculosis; and Herpes Zoster and post-herpetic neuralgia and association with paralysis of the left hip and the musculature and marked pain.

Reports also in file from Dr. M. [redacted] and Dr. Charles Schuman, a Diplomate in internal medicine, reveal essentially the same details. These details essentially are the same except that it indicates that he has a history of tuberculosis since 8/48. He has had reactivations and the most recent one was in 9/65.

Evidence in the file reveals that this 53 year old claimant has been unable to work since 3/15/68 because of optic neuritis rendering his left eye legally blind due to hemorrhages and exudates, severe deafness and in addition, he has had Herpes Zoster with residual scars, paralysis on the left hip,

CONTINUATION SHEET
FOR DISABILITY DETERMINATION

BP:ero 8 178

NOTE.—Use this form only when necessary for continuation of Item 32 of "DISABILITY DETERMINATION" or "CESSATION OR CONTINUANCE OF DISABILITY".

NAME Clement B. Nugent	NAME OF WAGE EARNER (IF AUXILIARY FILING)	SOCIAL SECURITY ACCOUNT NO. 081-18-0678	DATE 1/1/68
---------------------------	---	--	----------------

-2-

and severe pain which is not intractable. Accordingly, it is felt that the claimant's condition is severe and has been since he was last able to work on 3/15/68. He is accordingly found to have been under a severe disability since that date.

EXHIBIT B-116



REQUEST FOR RECONSIDERATION

(Do not write in this space)

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

SOCIAL SECURITY CLAIM NUMBER

Clement B. NUGENT

081-18-0678

NAME OF CLAIMANT

CLEMENT B. NUGENT

CLAIM FOR (Specify type, e.g., retirement, disability, hospital insurance, etc.)

DIB

SSA OFFICE

I do not agree with the determination made on the above claim and request reconsideration. JUN 17 NY 9.29

My reasons are: I became disabled 3/15/68. I feel

That my benefits should have commenced
10/1/68 not 1/1/70.

NOTE: If the date of the notice of the determination on this claim was more than six months ago include your reason for not making this request earlier.

I am submitting the following additional evidence (If none, write "None."):

None

SIGNATURE OF WITNESSES ONLY

If this request has been signed by mark (X), two witnesses who know the person requesting reconsideration must sign below, giving their full addresses.

1. NAME

ADDRESS (Number and Street, City, State and Zip Code)

2. NAME

ADDRESS (Number and Street, City, State and Zip Code)

SIGNATURE (Write in Ink—First, Middle Initial, Last Name)

Clement B. Nugent

MAILING ADDRESS (Number and Street, P.O. Box or Route)

1606 Albany Ave

CITY AND STATE

Bilgyn NY

ZIP CODE

11210

DATE (Month, Day, and Year)

6/2/70

TELEPHONE NUMBER

GE4-8755

FOR SOCIAL SECURITY OFFICE USE ONLY

PROVIDER NAME AND NUMBER

INTERMEDIARY NAME AND NUMBER

SOCIAL SECURITY OFFICE ADDRESS

EXHIBIT 747

ROUTING
INSTRUCTIONS
(Check one)☐ State Agency (Route with disability folder)☐ Payment Center _____ BDI, Balto. ☐☐ BHI, RO _____☐ BHI, Attn: DRB, Balto.☐ Division of Foreign Claims, Balto.☐ BDPA, Attn: CWAB, Balto.☐ Intermediary

DISABILITY DETERMINATION
AND TRANSMITTAL

1. FOLDER TO:

BDI ☐ SA ☐ DFC ☐

2. DATE APP'D.

2/19/70

3. W/E (if Auxiliary Filed)

OASI
W/E ☐

D-B
W/E ☐

4. SOCIAL SECURITY ACCOUNT NUMBER

081-18-0678

180

5. NAME AND ADDRESS OF CLAIMANT

Clement B. Nugent
1606 Albany Avenue
Brooklyn, New York 11210

6. BIRTH

10/18/14

7. SEX

M ☐ F ☐

8. RACE

W ☐ N ☐ O ☐

9. AOD

3/15/68

10. AT AGE

53

11. CLAIM FOR

FREEZE ☐ DIB ☐ CHILD ☐ DWB ☐

12. FAMILY STATUS

MAR. ☐ SG ☐

NO. CHILDREN (UNDER 18)

13. OC REQ.

LAST MET 3/21/73

SI ☐

14. ☐ W/E DOES NOT MEET 20/40 REQ.

A. ☐ DIS. BDI REVIEW

B. ☐ SINCE LAST DET.

15. PREV. DENIED OR TERM.

16. NON-DIS. DEV. IN PROGRESS

17. MED. DEV. DEF.

18. SA CODE

330

19. STATE

NY

20. DISTRICT OFFICE ADDRESS

135 E. 22nd St.
Brooklyn, New York 11226

DO CODE

RO CODE

21

FILE REVIEWED & APPROVED FOR TRANSMITTAL

23. REMARKS

Received J. G. 6/17/70

21. CLAIMS REPRESENTATIVE

22. DATE OF TRANSMITTAL

PRESCRIBED PERIOD

PURSUANT TO PROVISIONS OF SEC. 221 OF SOCIAL SECURITY ACT, IT IS DETERMINED THAT THE CLAIMANT:

24. ☒ HAS BEEN UNDER A DISAB. SINCE 6/30/69

25. ☐ WAS UNDER A DISAB. A. DATE FROM B. TO

26. ☐ WAS NOT UNDER A DISAB. ON OR BEFORE (Date)

29. DIAGNOSIS
PARALYSIS LEFT LOWER
EXTREMITY
HERPES ZOSTER
OPTIC NEURITIS

27. ☐ WAS NOT UNDER A DISAB.

28. CASE OF BLINDNESS AS DEFINED IN SEC. 216(h)

A. ☐ NOT UNDER A DISAB. FOR CASH BEN. PURP.

B. ☐ UNDER A DISAB. FOR CASH BEN. PURP. SINCE

30. MOB CODE

C

31. VOCATIONAL BACKGROUND (Occupation)

Longshoreman

OCC. YEARS

EDUC. YEARS

11

32. BASIS FOR DETERMINATION

1502 a(2)

☒ CONTINUED ON ATTACHED SHEET (Use OA-D534)

33. RECOMMENDATION EXAM ON (Date)

None

34. DISABILITY EXAMINER'S A

Handwritten signature

35. DATE

6/17/70

36. REVIEWED BY SOCIAL SA

Handwritten signature

37. DATE

1/7/71

TO BE COMPLETED BY SSA

38. ☐ CHILD'S DISABILITY BEGAN BEFORE AGE 18 AND CONTINUES.
☐ CHILD NOT UNDER A DISABILITY WHICH BEGAN BEFORE AGE 18.

39. ☒ W/E MEETS 20/40 TEST IN 6/69 OTR.
☐ W/E DOES NOT MEET 20/40 TEST, HAS OF 40 OTRS ENDING

40. A PERIOD OF DISABILITY IS ☒ ESTABLISHED FROM 6/69 TO 6/70
☐ NOT ESTABLISHED.

41. REMARKS

This receives the 831 of 4/17/70

42. RE-EXAM REQ

None

43. DISABILITY EXAMINER

Handwritten signature

44. DATE

6/17/70

45. DISABILITY EXAMINER

Charles E. Beck A

46. DATE

7/8/70

CLAIMANT TO BE NOTIFIED BY:

47. ☒ BDI ☐ PC

48. LT/OT/NO

DL

49. PRIOR ACT.

FD ☐ PI ☐ REVISED 4

50. PACT CODE

3

51. AOD CODE

A-1

52. RETURN CODE

H-

53. CAT.

☒ DIB ☐ CH

54. SPECIAL CODE

☐ W ☐ OSF ☐ VA ☐ FR ☐ VAD

55. LIST NO.

Handwritten number

CONTINUATION SHEET
FOR DISABILITY DETERMINATION

181

NOTE.--Use this form only when necessary for continuation of Item 32 of "DISABILITY DETERMINATION" or "CESSATION OR CONTINUANCE OF DISABILITY".

NAME Clement Nugent	NAME OF WAGE EARNER (IF AUXILIARY FILING)	SOCIAL SECURITY ACCOUNT NO. 081-18-0678	DATE 6/19/70
------------------------	---	--	-----------------

In the determination dated 4/17/70, the claimant was found under a disability from 6/30/69. The claimant now requests reconsideration stating that he became disabled 3/15/68.

When the claimant filed his original application in 9/68, he had alleged inability to work from 3/15/68; that application was carried through a Hearing Examiner's decision, dated 5/29/69, in which it was determined that no condition was present of such severity as to prevent all types of work activity. It is noted that the claimant was present before the Hearing Examiner on 5/12/69.

On 2/19/70, the claimant filed a new application again alleging inability to work on 3/15/68. There were no changes in the impairments on which the denial was previously based. However the attending physicians note a sudden and dramatic change in the claimant's condition about 5/69. Dr. Jerome Block notes that in 6/69 pain developed in the left hip and at the end of 7/69, a rash, typical of Herpes Zoster over the left thigh and calf. Severe hip and leg pain was present and increased. Neurologic findings at that time were marked weakness of hip flexion and knee extension. The rash has disappeared, but the claimant remains with a paraparetic left hip and knee with marked weakness of the left iliopsoas and quadriceps muscles and milder weakness of the dorsiflexors of the left foot. There is constant and severe pain in the left buttock and leg for which medication has not helped.

In the determination of 4/7/70, the claimant was awarded disability from 6/30/69. In view of the fact that at the time the claimant was seen by the Hearing Examiner in 5/69, there were no complaints relative to the condition which now disables him, correct onset appears to be in the month of 6/69. Therefore disability is found as of 6/30/69.

This revises the prior determination of 4/17/70.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BALTIMORE, MARYLAND 21241

182

JUL 9 1970

BUREAU OF
DISABILITY INSURANCE

REFER TO:

DI:R:1A
081-18-0678

NOTICE OF RECONSIDERATION DETERMINATION

Mr. Clement B. Magent
1606 Albany Avenue
Brooklyn, New York 11210

Dear Mr. Magent:

Upon receipt of your request for reconsideration, we had your claim re-evaluated by a physician and a Disability Examiner in the State agency which works with us in rating disability determinations. All the evidence in your case has been carefully evaluated; this includes the medical evidence and the additional information received since the original decision. This new evaluation was then independently reviewed in the Social Security Administration. On the basis of the evidence, and considering your age, education, training and work experience, it has been determined that the previous determination was proper under the law.

In requesting reconsideration of your 1970 application you reported that you had been disabled since March 1969 instead of June 1969 as established by our previous determination. In considering your current application we obtained additional evidence from your attending physicians and hospital records. We also re-examined all of the evidence obtained with your previous application.

The records show that a hearing was held on May 29, 1969 and at that time all of the evidence obtained with your 1969 application was re-evaluated. The hearing examiner carefully considered the limitations imposed by you visual problem, your hearing loss, and the residual effects of tuberculosis. The hearing examiner found that you did not meet requirements of the law for disability purposes. This decision was upheld by the appeals Council in July 1969.

In January 1970 you filed a second application reporting an additional impairment, residuals of your left hip and leg. Information from your attending physician revealed this condition began in June 1969 and that this was a significant impairment. On the basis of the involvement of your left leg and your other conditions it was determined that you first met the disability requirements of the law in June 1969 instead of in March 1969. Since the current evidence did not establish that your impairments were of greater severity than established by our earlier decisions, there is no basis for changing those determinations.

EXHIBIT B-4 (2pgs)

CHECK: DJS 7-10-70

CB/JS
7-11-70

2

As you were previously informed, this determination concerns only your disability application. It is not a decision as to whether benefits will be payable to you at retirement age.

We hope this satisfactorily explains the reason for the determination in your case. If you believe that the reconsideration determination is not correct, you may request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. If you want a hearing, you must request it not later than 6 months from the date of this notice. You should make any such request through your social security office. Read the enclosed leaflet BHA-1 for a full explanation of your right to appeal.

Harold G. Wanzor, Acting Director
Division of Reconsideration

Enclosure: ()
BHA-1



REPORT OF DISABILITY INTERVIEW
(Write Legibly)

OFFICE *Hairbuth*
CONTACT MADE
☒ IN PERSON
☐ TELEPHONE

DATE	2/19/70
------	---------

PLACE OF CONTACT

<input type="checkbox"/> DO	<input type="checkbox"/> CS
<input checked="" type="checkbox"/> HOME	<input type="checkbox"/> OTHER

184

ACCOUNT NUMBER
081-18-6658

CLAIMANT'S NAME
W. J. McFarland

WAGE EARNER'S NAME (If not the claimant)

PERSON(S) CONTACTED ☒ CLAIMANT ☐ OTHER (If other, show name, address and relationship to a claimant.)

NATURE OF INJURY OR ILLNESS
Expanding bullet wound to the chest - 713.

CURRE
AGE
56

HIGHEST GRA
COMPLETED
1142

OTHER TRAINING	
----------------	--

JOB TITLE (*Principal occupation*)

TYPE OF BUSINESS OR INDUSTRY

INTERVIEWER'S SIGNATURE

☐ CR ☒ FR
☐ OTHER

I. ONSET OF IMPAIRMENT

8. DATE INJURY OR ILLNESS FIRST
NOTICED BY PATIENT

b. DATE CLAIMANT STOPPED WORKING 2/1/68

c. 1700

Describe effect of impairment on work when condition first bothered claimant.

- Symptoms
- Job duties
- Working conditions
- Attendance

Describe significant changes (with dates) until work stopped.

- Symptoms
- Job duties
- Working conditions
- Attendance

Give claimant's reasons for stopping work.

Explain if AOD
later than date
claimant stopped
work.

The wife had been working on a large barge. He was working & had been carrying a lot of boxes. He had been carrying boxes for his wife & back home. He continued to work until March 21 when he went to his doctor and then to the hospital. He was hospitalized on 3/23/68. He was there 13 weeks and advised her that he had a history of untreated T-B. He then went to his doctor who kept treating him. His right eye was permanently damaged.

Has claimant worked since the alleged onset date? (If "Yes," complete Form CA-D821.)

☐ YES ☒ NO

If any apply, the decision will most likely rest on the medical reports or SGA.

CHECK ANY OF THE FOLLOWING THAT APPLY (If any of the items are checked—Do Not Complete pages 2, 3, or 4.)

☐ Is engaging in SGA☐ Alleges progressive cancer

☐ Has lost a leg because of diabetes or Buerger's disease

☐ Is hospitalized for a condition related to the alleged disa

☐ Is unable to speak, or to see, or to hear

Has lost use of a leg because of a
vertebrae fracture 2-6-12

☐ Loss of use of at least two limbs

EXTENDIT B50 (390)

II. PROGRESSION OF CONDITION

Have there been any changes in symptoms, physical limitations, or activities since work stopped? ☒ Yes ☐ No

185.

The wife was on the couch sleeping. He was under sedation due to severe pain in hip. He also is in a dilligent

If yes, describe all changes in condition (with dates) since work stopped.

III. EFFECTS OF CURRENT CONDITION

He cannot walk to his wife. His wife does all the talking. He is in a poor condition. He gets up on the couch or in bed. He does not have any control. He has difficulty walking. His doctor has advised him to stay in bed. He cannot leave the house.

Describe current condition
eSymptoms—Type, frequency, severity
eNormal Activity limitation:
eOther limitations

Physician placed limitations
eBed rest
eSpecial therapy
eDiet
eRestricted activity
eEtc.

IV. DAILY ACTIVITIES

He spends the day on the couch. He is unable to get up. He does not go out. He is able to eat and drink. He is able to use the toilet. He is able to use the telephone. He is able to use the radio. He is able to use the television. He is able to use the computer. He is able to use the internet. He is able to use the telephone. He is able to use the radio. He is able to use the television. He is able to use the computer. He is able to use the internet.

Describe activities of a typical day
ePhysical
eMental
eContact with others

Describe assistance required in caring for personal needs.

Describe current living arrangements.

CHECK ANY OF THE FOLLOWING THAT APPLY (If any of the items are checked—Complete Observations)

- ☒ Is house confined because of a physical impairment
- ☐ 3 months after stroke claimant has weakness of 2 limbs, or severe speech or memory defect with marked loss of use of one limb
- ☐ Arthritis with gross deformity of 2 or more limbs

- ☐ Parkinson's disease with marked tremors or propulsive gait.
- ☐ Multiple sclerosis with staggering gait, marked tremors or visual difficulties
- ☐ Other severe, observable limitations (Describe under Observations (Section VII).)

If any apply, a description of the impairment and observations are needed to supplement the medical reports.

VI. PRINCIPAL JOB (Vocational Description) - continued

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☐ Dust ☐ Noise ☐ Exposure to Elements ☐ Extremes in Temperature ☐ Work Pressure ☐ Dampness
☐ No adverse working conditions ☐ Other

C. WORKING CONDITIONS

Describe each item checked except "No adverse working conditions"

D. JOB DUTIES

Describe fully each of the duties performed by the claimant in a typical day, including the amount of supervision received.

E. REQUIRED SKILLS

Describe all "Yes" answers fully.

1. Training—other than on-the-job received ☐ Yes ☐ No 3. Supervision of others required ☐ Yes ☐ No
2. Special qualifications or skills required ☐ Yes ☐ No

VII. OBSERVATIONS

Sight ☐ Yes ☒ No
Reading ☐ Yes ☐ No
Responding ☐ Yes ☐ No

Hearing ☐ Yes ☐ No Comprehending ☐ Yes ☐ No
Use of hands and arms ☐ Yes ☒ No Breathing ☐ Yes ☐ No
Writing ☐ Yes ☐ No Sitting ☐ Yes ☐ No
Speaking ☐ Yes ☐ No Walking ☐ Yes ☐ No
Other ☐ Yes ☐ No

Check each item to the left to indicate whether or not any difficulty was observed.

Describe fully
o General appearance
o Behavior
o Outward attitude
o Circumstances surrounding the interview
o ALL ITEMS CHECKED "YES."

The wife was on the couch in the back of the car. I could not communicate with her under sedation. I received all the information from her wife. It seemed to be a fog. He did answer yes to the question. He could not recall. He seemed groggy.

EXHIBIT

B-56

MEDICAL REPORT
(General)DATE OF THIS
REQUEST

2/24/70

187

Notice to Physician:

Please include sufficient details of history, physical and diagnostic findings, clinical course, therapy and response to enable a reviewing physician to make an independent determination as to the severity and duration of the impairment.

(1) IDENTIFYING INFORMATION (To be completed by Requesting Office)	PATIENT'S NAME	DATE OF BIRTH	SOCIAL SECURITY ACCOUNT NO.
	Clement Nugent	10/18/14	081-18-0678
	WAGE EARNER'S NAME (If different from patient)	ADDRESS OF REQUESTING OFFICE	
	NAME OF DOCTOR	135 East 22nd Street Brooklyn, New York 11226	
	Dr. M. Siegel		

I. HISTORY: (Give complaints, past and present, clinical course, including therapy and response.)

MR. Nugent has been a patient of mine since July 1948. At this time he presented a picture of weight loss, sweats, physical examination and X-Rays revealed Tuberculosis of lung. He was referred to Dr Charles Schuman a Specialist in Lung Diseases. He was Hospitalized in August 1948. He has been under Dr Schuman's care since 1948. for all manifestations of Pulmonary Tuberculosis, the last one in September 1965.

During this period of time I treated him for several episodes of Broncho pneumonia

In March 1968 there was a marked change in Mr Nugent's vision.

Ophthalmologic examination by Dr James Incardi revealed evidence of papil edema, R hemorrhages and increased ocular pressure in left eye. (Continued)

DATE OF INJURY FIRST SIGNS OF ILLNESS	DATE IMPAIRMENT PRE- VENTED WORK	DATE YOU FIRST EXAMINED PATIENT	FREQUENCY OF VISITS	DATE OF LAST EXAMINA- TION
1948 1965 1968	March 1968	July 1948	Periodic	Dec 1968

EXHIBIT B51 (4pgs)

II. PHYSICAL FINDINGS: Please show all pertinent findings (with dates).

HEIGHT	WEIGHT
--------	--------

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Because of the possibility of Central Nervous System pathology, He was entered into Knox Hill Hospital under the care of the director of Neurology, Dr Jerome Block. After extensive workup - a Diagnosis of Optic Neuritis left eye with subsequent blindness.

The drug of choice for this condition was Steroids (Prednisone). This necessitated careful watching and treatment of his Tuberculosis (to prevent reactivation)

while in Knox Hill Hospital. It was found that Mr Nugent has no useful hearing in his right ear with moderate impairment in the left.

In May 1969 Mr Nugent started with pain in the left Sacral nerve distribution which manifested itself as Herpes Zoster. The pain became intractable. He was hospitalized in August 1969 at Knox Hill Hospital. Spinal fluid studies were abnormal. He has residual pain, left R. p and thigh.

Continued

With paralysis of left hip flexors and left knee extensors

I first saw Mr. Nugent Dec 1968 for an Upper Respiratory Infection

He is taking the following medications

- 1) Prednisone
- 2) I.H.H.
- 3) Dilysan & Streptomycin
- 4) Demerol
- 5) Dilantin Sodium
- 6) Phenergan
- 7) Maselex

He has been unable to work since March 1968. His bill is under the care of Dr. Charles Selman and Dr. Jerome Block

He also has a 25% loss of the use of his right hand due to a compensable injury.

III. LABORATORY AND SPECIAL STUDIES: Give results with dates. (Hemoglobin, Hematocrit, Sedimentation rate, Cerebrospinal fluid, Blood chemistry, Urinalysis, Sputa (smear, culture), Serology, X-rays, Electrocardiogram, Liver function, Bronchoscopy, Myelogram, Biopsy, Pulmonary function, Renal function, Psychometric, etc.)

190

IV. DIAGNOSES:

1. Pulmonary Tuberculosis
2. Optic Neuritis, left bilaterally blind
3. Harter 200 Ser E paralysis left lower extremity, with a myelovacuolites

EXHIBIT B-51

REPORTING PHYSICIAN'S NAME AND ADDRESS	SIGNATURE	TITLE
MARVIN S. SIEGEL M.D. 3120 Glenwood Road Brooklyn N.Y.	Marvin Siegel M.D.	
	TELEPHONE NUMBER	DATE
	92467	3/24/70

MEDICAL REPORT
(General)DATE OF THIS
REQUEST135 East 22 St
Brooklyn 11226

191

Notice to Physician:

Please include sufficient details of history, physical and diagnostic findings, clinical course, therapy and response to enable a reviewing physician to make an independent determination as to the severity and duration of the impairment.

(1) IDENTIFYING INFORMATION (To be completed by Requesting Office)	PATIENT'S NAME <i>Clement B. Ingersoll</i>	DATE OF BIRTH <i>10/19/14</i>	SOCIAL SECURITY ACCOUNT NO. <i>081-18-0678</i>
	WAGE EARNER'S NAME (If different from patient)	ADDRESS OF REQUESTING OFFICE <i>135 East 22 St Brooklyn 11226</i>	
	NAME OF DOCTOR <i>Dr. Charles W. Schuman</i>		

I. HISTORY: (Give complaints, past and present, clinical course, including therapy and response.)

History of pulmonary tuberculosis since 1948. Pneumothorax of the left lung was induced at the time and treatment continued until 1954.

Since 1954 there have been several re-activations involving both lungs. These re-activations were characterized by fever, cough and expectoration, loss of weight and strength. The most recent of these episodes occurred in 1965.

The therapy used was intra-muscular Dihydrostreptomycin with isonicotinic acid. Treatment

DATE OF INJURY OR FIRST SIGNS OF ILLNESS	DATE IMPAIRMENT PREVENTED WORK	DATE YOU FIRST EXAMINED PATIENT	FREQUENCY OF VISITS	DATE OF LAST EXAMINATION

II. PHYSICAL FINDINGS: Please show all pertinent findings (with dates).

HEIGHT	WEIGHT
5-10	150

192

was often prolonged because of the slow response.

Physical Examination.

Eyes - Last vision of left eye in 1918 (May or April?), this was sudden. Apparently no definite etiology was established.

Ears. Marked loss of hearing, progressive in past several years.

Lungs. Good resonance. No altered breathing. An occasional wheeze is audible in both lungs.

Abdomen is soft. No masses.

Extremities Normal. No edema.

There is a papular eruption down entire left lower extremity of a recent herpes zoster. (He was hospitalized for this about 2-3 weeks ago at The Lenox Hill Hosp.)

B.P. 130/80

Urine 1020 Res. to Sand P¹⁹³

X-ray. The heart is of normal contour and dimensions.

Left lung. The diaphragm is flattened and the entire lung is contracted. The pleura is thickened and is visualized to the apex where it occupies this area. Scattered fibrotic irregular nodules are discernible throughout.

Right lung. The diaphragm is smooth and the costo-phrenic angle is clear. There are fibrotic nodules and linear densities occupying the upper third of the lung. A few fibrotic densities are present in the lower two-thirds of the lung.

III. LABORATORY AND SPECIAL STUDIES: Give results with dates. (Hemoglobin, Hematocrit, Sedimentation rate. Cerebrospinal fluid, Blood chemistry, Urinalysis, Sputa (smear, culture), Serology, X-rays, Electrocardiogram, Liver function, Bronchoscopy, Myelogram, Biopsy, Pulmonary function, Renal function, Psychometric, etc.)

194

Recent laboratory studies were done at the Lenox Hill Hospital. She was admitted there for pain in the left lower extremity which proved to be Herpes Zoster.

There is a return of vision of the left eye. This may be of tuberculous etiology. Hearing is severely impaired from prolonged therapy with hydrostreptomycin.

IV. DIAGNOSES:

1. Tuberculous tuberculosis.
2. Loss of vision of left eye (maybe tuberculous)
3. Severe hearing loss secondary to prolonged use of hydrostreptomycin.

EXHIBIT B-52

REPORTING PHYSICIAN'S NAME AND ADDRESS
CHARLES SCHUMAN
40 Park Ave
N.Y. N.Y.

SIGNATURE Charles Schuman
TELEPHONE NUMBER WU 5-0174

TITLE
DATE JUN 18, 69

MEDICAL REPORT
(General)DATE OF THIS
REQUEST

195

2/24/70

Notice to Physician:

Please include sufficient details of history, physical and diagnostic findings, clinical course, therapy and response to enable a reviewing physician to make an independent determination as to the severity and duration of the impairment.

(1) IDENTIFYING INFORMATION (To be completed by Requesting Office)	PATIENT'S NAME Clement Nugent	DATE OF BIRTH 10/18/14	SOCIAL SECURITY ACCOUNT NO. 081-18-0678
	WAGE EARNER'S NAME (If different from patient)	ADDRESS OF REQUESTING OFFICE 135 East 22nd Street Brooklyn, New York 11226	
	NAME OF DOCTOR Dr. J. Block		

I. HISTORY: (Give complaints, past and present, clinical course, including therapy and response.)

The abovenamed is a 55 year old former longshoreman who I first saw in 2/68 with a history of fairly sudden onset of pain behind the left eye and decreased vision in that eye. Full neurologic evaluation at that time, both in my office and at Lenox Hill Hospital, showed severe optic neuritis on the left with swelling of the disc, hemorrhages and exudates, left eye. The hemorrhages and exudates have since, in great part, resolved, but the disc is pale and he is blind in that eye. He was treated and continues treatment with Prednisone on a limited basis because of severe complications of chronic, widespread pulmonary tuberculosis in the past. His therapy on Prednisone was necessarily restricted because of this, and he has had to remain under the care of his chest physician who is treating him with INH and Furodoxin. I believe he also gets some streptomycin from time to time which further complicates his established history of severe bilateral hearing loss.

I followed Mr. Nugent for the above complaints and still do, but in addition to this, in 6/69 he developed some pain in the left hip and at the end of 7/69 a rash, typical of herpes zoster appeared over the anterior lateral aspects of the left thigh and calf. Severe hip and leg pain was present and increased with the appearance of the rash which spread to the glans penis and the inner aspect of the thigh. Neurologic findings at that time, aside from bilateral deafness and leftsided blindness, were marked weakness of hip flexion and knee extension. The patient was again hospitalized at Lenox Hill Hospital where spinal tap showed increase protein, pleocytosis, but with a myelogram, was normal. Since then the rash has disappeared, but he remains with a paretic left hip and knee with marked weakness of the left ileopsoas and quadriceps muscles and milder weakness of the dorsiflexors of the left foot. There is some urinary urgency and stress incontinence as well and there is hypalgesia in the L-2-3-4 distribution on the left side. He continues to complain of constan

DATE OF INJURY OR FIRST SIGNS OF ILLNESS	DATE IMPAIRMENT PRE- VENTED WORK	DATE YOU FIRST EXAMINED PATIENT	FREQUENCY OF VISITS	DATE OF LAST EXAMINA- TION

EXHIBIT 353 (copy)

II. PHYSICAL FINDINGS: Please show all pertinent findings (with dates).

HEIGHT

WEIGHT

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severe pain in the left buttock and leg and requires Pheno-
barbital and Demerol. He is also taking some Dilantin, but
this has not controlled the pain.

Please note some of the physical findings included in the history, but
in summary on physical findings there is deafness, right ear greater
than left, blindness with optic atrophy and hemorrhages in the left
eye, shortness of breath with wheezing throughout the lung fields,
scars of herpes zoster over the left leg with paralysis of the left
leg, partial but significant.

III. LABORATORY AND SPECIAL STUDIES: Give results with dates. (Hemoglobin, Hematocrit, Sedimentation rate. Cerebrospinal fluid, Blood chemistry, Urinalysis, Sputa (smear, culture), Serology, X-rays, Electrocardiogram, Liver function, Bronchoscopy, Myelogram, Biopsy, Pulmonary function, Renal function, Psychometric, etc.)

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Patient has had multiple spinal taps, carotid arteriogram, visual field studies, chest x-rays and myelograms confirming the above diagnoses.

IV. DIAGNOSES:

1. ~~Right~~ Blindness, left eye
2. Deafness, bilateral, right greater than left
Pulmonary tuberculosis
3. Herpes zoster and post-herpetic neuralgia in association with paralysis of left hip and the musculature and marked pain.

Comment: This man is now totally disabled due to a combination of the illnesses. I do not consider him a candidate for rehabilitation.

EXHIBIT B-53

REPORTING PHYSICIAN'S NAME AND ADDRESS	SIGNATURE	TITLE
Jerome M. Block, M.D. 1 E. 87th St., NY, NY		
	TELEPHONE NUMBER	DATE
		3/16/70

ROGER MILES ROSE, M.D.

NEW YORK, N. Y. 10021

TEMPLETON 0-0750

198

December 2, 1969

RE: CLEMENT NUGENT

To Whom It May Concern:

My records indicate via history taken from Mr. Nugent that he received at least thirty injections of DihydroStreptomycin in 1953. Of course he is unable to tell me whether he received half a gram or one gram or what the exact dosage was, but in my opinion fifteen grams of this drug certainly could have caused a permanent sensori-neural hearing loss such as Mr. Nugent suffers from.

Sincerely,

[Signature]
Roger Miles Rose, M.D.

EXHIBIT B54

*Mr. Nugent has stated in previous letters to the Va -
ria & I believe you have taken - that he has injected
Dihydro Streptomycin - He also told me on the phone
that he was very young - that means in fact he
thirty days before I had decided the dosage
was wrong - to cause this impairment - This was
thirty days before was 1952 to 1953 - E. Jan 1953 -
reason of the speed of T.B. into my right lung -
Dihydro Streptomycin - Dihydro Streptomycin has been injected
whenever necessary since -*

I have had many years on my pension ¹⁹⁹
if my Service connected disability - I had about
five years of coverage - for they do not pay me
if I do not work - Hence the V.A. pension is
the only one that I had to one thing - the Service -
had me in this country take the best care of
"Dear Boys"

One of my friends asked me if I got the
"see in another form" from the V.A. - I said
it -

1. Physician's Name Rose, Roger Miles
(Last) (First) (Middle)

2. Address 127 East 61st Street, New York, New York 10021 200

3. AMA Membership: ☒ Yes ☐ No

4. Year of Birth (B): 1931

5. Medical Education (ME): State: New York

School: New York University School of Medicine, New York

Year of Degree: 1955

6. Year of License (L): 1959

7. National Board (NB): ☒ Yes ☐ No

Year: 1956

8. American Specialty Boards (AB): American Board of Otolaryngology

9. Medical Specialties: Otolaryngology

10. Type of Practice (TOP): Full-time specialty

National Scientific Medical Societies: (SS) American Academy of Ophthalmology and Otolaryngology

12. Professorial Appointments (PA): State: New York

School: New York University School of Medicine

13. Other Information: _____

14. Sources of Information: American Medical Directory
Edition: 25th Page: 2831

Other Sources: _____

EXHIBIT B55

CHARLES SCHUMAN, M. D.
40 PARK AVENUE
NEW YORK, N. Y. 10016

MURRAY HILL 5-0174

May 19, 1971

201

MAY 28 1971

25 Federal Plaza, Room 3153
New York, New York 10022

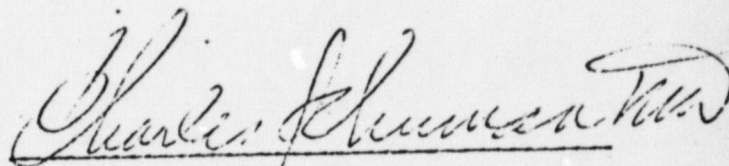
CLEMENT B. NUGENT
1606 Albany Avenue
Brooklyn, New York

At the request of Mr. Nugent I reviewed the report and decision rendered on his case on March 31, 1971 by the hearing examiner, Mr. Samuel C. Berson, of the Department of Health, Education and Welfare. My attention was particularly directed to the paragraph on page 6 in which reference was made to my recommendation that Mr. Nugent should not work while receiving the steroid therapy prescribed by his ophthalmologist.

Since Mr. Nugent has a long history of tuberculosis with reactivations, I felt that every precaution to prevent any further reactivation should be taken. An arrested tuberculous patient is vulnerable to reactivation of the disease when subjected to the use of steroids.

Mr. Nugent has a definite impairment of hearing from the use of streptomycin which was used previously to control his then active tuberculous disease. Streptomycin is used to prevent reactivation of tuberculosis when using steroids. Because of the hearing loss the use of streptomycin to prevent reactivation from the steroids had of necessity to be very limited.

Since the risk of reactivation from the use of steroids can not be maintained adequately by medication I felt that inactivity might be of some aid in preventing reactivation. Even a sedentary job with the necessary difficulties of transportation might prove hazardous.


Charles Schuman, M. D.

CS/st

EXHIBIT AC-1 (p. 11)

Clement B. Nugent, Claimant and Wage Earner
Account Number 081-18-0678

SUPPLEMENTAL COURT TRANSCRIPT INDEX

Page No.

Order of Appeals Council-Extending time to file
Civil Action

202

Request for Extension of time to file Civil Action
with attachment

203-209

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

202

ORDER OF APPEALS COUNCIL
EXTENSION OF TIME WITHIN WHICH TO FILE A CIVIL ACTION

In the case of

Claim for

Clement B. Nugent
(Claimant)

Period of Disability and
Disability Insurance Benefits

Clement B. Nugent
(Wage Earner)

081-18-0678

(Social Security Account Number)

Upon consideration of the facts and for good cause shown, the Appeals Council finds that an extension of time within which to commence a civil action is warranted. Accordingly, it is hereby ordered that the time to commence a civil action in the United States District Court for the purposes of reviewing the decision of March 31, 1971, is extended to and including November 2, 1971, the day on which such action was actually filed.

7/25/72
Date

APPEALS COUNCIL

Jackson C. Smith
Jackson C. Smith, Member

July 17, 1972

203

Dear Sir:

Enclosed you will find a copy of the decision handed down by Judge George R. Long on June 30, 1972, in the Civil Action. Ernest B. Wignall v. The Secretary of Health, Education and Welfare. While Judge Long dismissed the action, as presented, he indicated that, "The Secretary might well be justified, should application be made to him by claimant in granting to claimant an additional day for the commencement of his action to enable him to convert his suit into one timely brought. I am writing, requesting that I be granted the extra day, necessary to issue the action timely."

This action was filed less than 12 hours late because of misinformation given me by an employee of Health, Education and Welfare.

When I spoke with the Social Security Administration representative at 135 West 22nd Street, New York, N.Y. 10011, on July 17, 1972, I was informed that the action was not timely filed.

an action against H.C. W. ² Another procedure
must follow. However he told me the fee would
be \$7.50 and I would be given a sheaf of papers
to ask which questions led to be answered and
proceed accordingly. Instead when I went to
the Federal Building at 225 Cedar Plaza,
Brooklyn, New York on November 1, 1971 to
file this action, I found the information
given me was incorrect.

I called the Federal Building before I left
my home, telling them that was the last
day for filing this action. When I arrived,
they had a sample form for me to follow.
I was taken aback, for I expected to be
given a sheaf of papers, pay my \$7.50 and
ask a few questions and leave. That did not happen.
I was given a sheaf of papers, and led to
write my complaint. I worked on these papers
for several hours before one of the clerks a
Mrs. Mildred Lozinsky, asked me if I had
enough money to file this action. I answered
her, "Yes, I had 11.00, the fee was \$7.50". At 1...

was 15.00 and that I had to leave five before. I did not have enough money. I was there to take in the afternoon. I had the money sent down to me. I was given the papers to return the next day. For the clerk is not allowed to accept a check. I returned with the papers before noon November 2, 1971 as the court closed at noon on Election Day. Even after all this no one mentioned the fee for the Marshall. Had I not had a check, I could not have filed that day either. The Marshalls do take checks.

N. N. I suspected I had not been given the correct information I would have checked with the clerk of the court when I first called.

In reading the leaflets included with all decisions handed down by the Social Security Administration it is stated any employee will gladly be of assistance to you. I believed what I had been told. It could have been an honest mistake on the part of the person giving me the information, for the fees could have been changed.

In light of these facts, I believe that I was the

I allowed the extra day to make this action timely. For had I known I would be penalized for misinformation offered, I would not have wasted the time of the court or wasted my money on fees and postage.

Sincerely,

Agnes T. Rupert

(for Clement B. Rupert)

U.S. atty

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1.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
-----x
CLEMENT B. NUGENT,

Plaintiff,

-against-

SECRETARY OF HEALTH, EDUCATION
AND WELFARE,

Defendant.
-----x

Filed
July 3, 1972

71-C-1412

JUN 30 1972

Appearances:

ROBERT A. MORSE, ESQ.
United States Attorney
Eastern District of New York
Attorney for Defendant

Thomas A. Illmensee, Esq.
Assistant U. S. Attorney
Of Counsel

Memorandum and Order

ROSLING, J.

Defendant Secretary moves to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(1), (2), and (6), and Section 205(g) of the Social Security Act, as amended, 42 U.S.C. § 405(g) on the ground that plaintiff failed to commence this action within 60 days after the mailing to the plaintiff of the notice of final decision of the Secretary.

The action sought to review in this court the decision of the Secretary which denied claimant plaintiff

disability insurance benefits.

Section 205(g) of the Act provides for review of the Secretary's decision "by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow."

The action was begun on the 61st day after such mailing and no additional time for the commencement of the action was applied for to, or granted by, the Secretary.

The cases are unanimous in their holding that the timely commencement of the action is a condition of the suit, and for failure to satisfy the requirement the action must be dismissed for want of subject matter jurisdiction.^{1/}

1/ Tate v. United States, etc., 437 F.2d 88 (9th Cir. 1971); Jamieson v. Folsom, 311 F.2d 506 (7th Cir. 1963); Bomer v. Ribicoff, 304 F.2d 427 (6th Cir. 1962); Zeller v. Folsom, 150 F. Supp. 615 (N.D.N.Y. 1955); Bohn v. Finch, 320 F. Supp. 270 (F.D. La. 1970); Gross v. Celebrezze, 246 F. Supp. 66 (N.D. Ind. 1965); Satterfield v. Celebrezze, 244 F. Supp. 190 (W.D.S.C. 1965); Frost v. Ewing, 13 F.R.D. 432 (W.D. Pa. 1953).

Order

The motion to dismiss the action is, accordingly,
granted.

This action would, however, appear to be one in which the Secretary might well be justified, should application be made to him by claimant, in granting to claimant an additional day for the commencement of his action to enable him to convert his suit into one timely brought.

The Clerk of the Court is directed to forward copies of this memorandum and order to the following:

Clement B. Nugent
Plaintiff, in person

Honorable Robert A. Horse
United States Attorney
Eastern District of New York.

GEORGE ROSLING

U. S. D. J.